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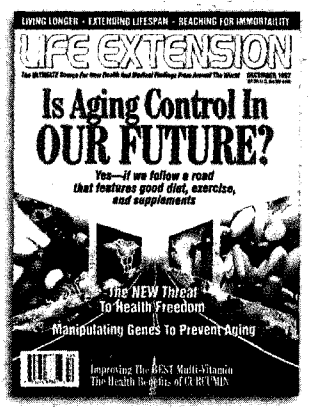
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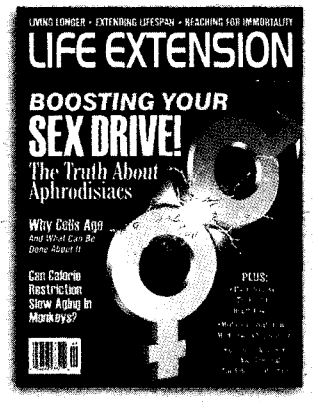

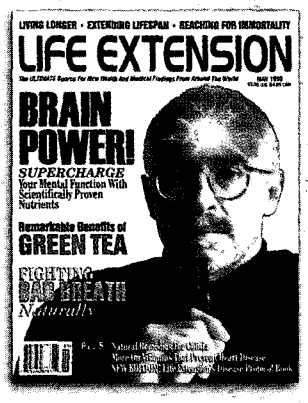
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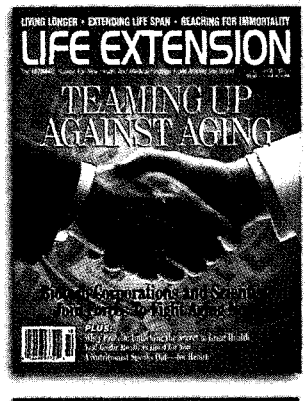

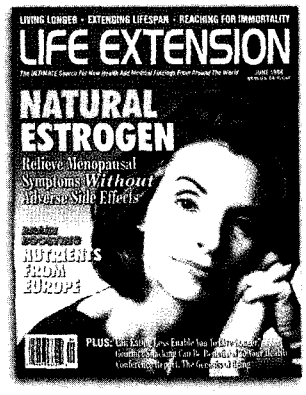

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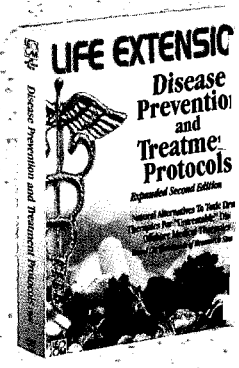

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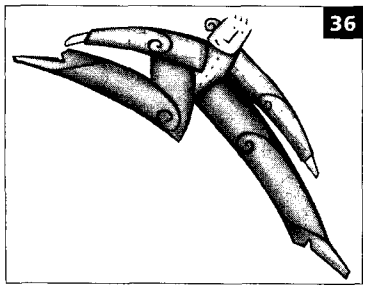

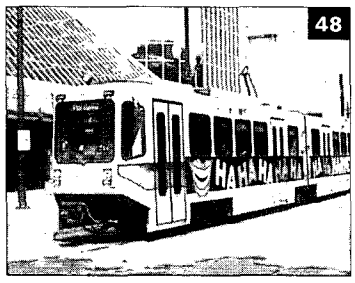

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Power Fantasies

The strange appeal of the Y2K bug

By Virginia Postrel

Wouldn't it be great if civilization as we know it collapsed? A lot of people seem to think so.

The Y2K bug has become the latest hope for many people with a grievance against contemporary society—and not just the head-for-the-hills survivalists. The problem is real enough, of course, and computer and embedded-chip users are spending hundreds of billions of dollars to make sure that when the calendar turns to 2000, their machines don't think it's the year 1900 and crash. But in the minds of many, the computer glitch isn't just a technical problem. It's a vehicle for reimagining, and potentially remaking, the world.

Consider two publications I received earlier this year. The first is a supplement to the *Utne Reader*, a magazine for yuppie greens in touch with their feelings. The second is the January issue of *Citizen*, the magazine of Focus on the Family, James Dobson's religious right organization.

Utne Reader and Focus on the Family have little in common. Culturally and politically, they are enemies. Yet the messages are remarkably similar: Don't withdraw from society out of fear of Y2K, the authors counsel. Survivalism isn't the answer. Be prepared to help in the coming chaos, and you and people who think like you will wind up on top. Y2K is just what we've been waiting for. It will simultaneously smite our enemies and demonstrate the power of our worldview.

"Some are seeing the Y2K crisis as a social change opportunity," write Gordon Davidson and Corinne McLaughlin in the *Utne* supplement. "People who have been working their entire lives for political, social and cultural change immediately see its transformational potential....If there are breakdowns in the infrastructure of the modern world, the seeds that have been planted by all these movements are likely to see exponential growth." We can profit from the coming collapse.

Along similar lines, *Citizen* writer Shaunti Christine Feldhahn suggests that Y2K could be just what evangelicals need to triumph over a secular America that makes them feel "scorned and battered." She writes, "Just as God has historically used times of crisis to touch and save hurting souls, He has also used turmoil to bring about change and accomplish His ultimate purposes. After all, many economists are predicting an unprecedented transfer of wealth and influence—from the unprepared to those who are not only prepared, but strategically positioned for Y2K.... Imagine how the professional world might change if every Christian business owner, government official and public-policy expert was not only prepared for Y2K, but looking for opportunities to help those around them."

Neither publication shows much interest in treating the Y2K bug as a technical problem to be solved rather than a source of social transformation. Both suggest that seeking technical fixes is immature. The message throughout is that technological society is terribly brittle, and that America deserves disaster. Feldhahn cites as comforting a verse from Isaiah: "When my judgments are upon the land, then the inhabitants of the world will learn righteousness." And she's tolerant compared to the *Utne* writers.

Many commentators have chalked up Y2K hysteria to "millennium fever," a replay of the apocalyptic religious fervors that swept Europe 1,000 years ago. I'm not so sure. The millennium angle is, I think, just an added bonus. If the same problem loomed for, say, 2005, we would see much the same response.

Y2K hype taps our native discomfort with the realities of a dynamic, evolving social order. It elevates personal, local contact over the impersonality of the "extended order" of trade and technological networks. It suggests that we can wipe the slate clean and start from scratch. It thus fuels the imaginations of those alienated from contemporary society.

Human beings do not naturally trust strangers, let alone distant, anonymous strangers. Yet our civilization depends on such trust. Our connections to far-flung strangers, through markets, professional networks, and technological ties, make us prosperous and resilient, able to reap the economic bounties and psychological satisfactions of specialization.

But these networks of strangers also make us nervous. And there are plenty of social critics ready to advocate the atavistic impulses of solidarity and autarkic "self-reliance." The *Utne* crowd is dedicated (somewhat inconsistently) to an ideology of local self-sufficiency. They oppose trade and specialization and detest "networks" of like-minded people, preferring "communities" that happen to be thrown together geographically. They're none too fond of technology, making Y2K a dream come true.

In this context, it's easy to understand why treating the Y2K bug as a technical problem has so little appeal: The glitch was created by anonymous computer specialists. How can we trust other anonymous specialists to solve it? Stocking up on food, water, and medicines gives us a sense of control, however false it may be. Relying on distant experts to do their jobs, by contrast, makes us feel vulnerable.

The greatest appeal of Y2K, however, is the dream of starting from scratch. In this scenario, the more systems that collapse, the better. (Another reason not to encourage efforts at technical repairs.) We will have revolution forced on us. Instead of the slow, difficult process of winning converts to their worldviews, the Y2K apocalyptics foresee an easy victory, courtesy of technological breakdown. They will then be able to build the society they've always dreamed of.

"If we begin our planning from 'What's possible?' we will avoid attempts to patch

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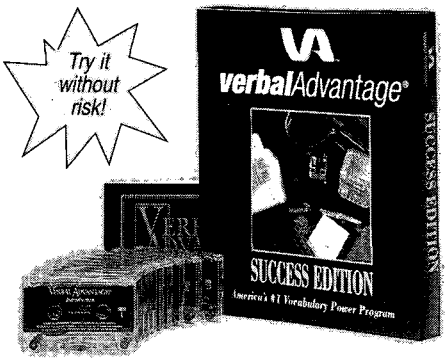

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together the old system, or to frantically re-create systems that have resulted in isolation and dissatisfaction," write Margaret Wheatley and Myron Kellner-Rogers in the *Utne* booklet, arguing for Y2K "as an opportunity to re-create our communities and culture." All that has gone before will be swept away—no messy patches, no building on the past—in favor of a world redesigned according to an ideal blueprint.

"Y2K," says Eric Utne, "is the excuse we've been waiting for to stop making so many compromises in how we know we should, and want to, live our lives. Y2K is our opportunity to stop our polluting and wasteful practices, and start living more sustainable, environmentally friendly lives."

Buried in this cheery rhetoric is the vision of a "year zero," a new world built on catastrophe and ruled by the enlightened. What Wheatley and Kellner-Rogers glibly dismiss as "the old system" are the lives of millions of people with no particular zeal to "re-create" their culture or communities.

The unglamorous truth is that the Y2K bug is a computer glitch—the costly product of long-ago decisions not to worry about the distant turn of the century. It is serious and expensive, and alarms that spur action to correct it are worthwhile. But it is not the end of the world.

And if it were, we would all suffer greatly. Fantasies of a remade post-apocalypse world are just *Mad Max* with a happy face, tales to entertain would-be *Übermenschen*. We may like to imagine ourselves as heroes in a simpler world, but the world we actually inhabit is complex, its heroes the quotidian specialists who make its complexity both productive and frightening. Instead of lusting for the end of civilization, as though real lives were just a movie, we should cherish its achievements and seek to correct its errors—even if that means settling for a "technical fix" instead of social transformation.

Following Suit

Clinton wants to stick it to smokers again.

By Jacob Sullum

When Attorney General Janet Reno testified before the Senate Judiciary Committee in April 1997, Ted Kennedy noted that four of his colleagues had written a letter urging her to imitate the states that were suing the tobacco companies. The Massachusetts Democrat asked her about the possibility of recovering money spent on smoking-related medical expenses under Medicare and other federal programs.

"What we have determined," Reno replied, "was that it was the state's cause of action and that we needed to work with the states, that the federal government does not have an independent cause of action." Similarly, a Justice Department spokesman told the Bergen County *Record* that "right now, it would seem we don't have the authority to sue."

In August 1998, the *Los Angeles Times* reported that "the idea of filing a Medicare recovery lawsuit...was rejected, in part because Justice attorneys were concerned that the government lacked legal standing to bring such a suit." The article quoted an outside attorney (presumably a plaintiff's lawyer) who dismissed the skeptics as "nervous Nellies" for worrying about such a minor issue.

President Clinton seems to have a similar attitude. Though he said in his State of the Union address in January that he plans to sue after all, the Justice Department still isn't sure exactly why. Reno is assembling a task force to come up with a justification.

That may be hard. Long after the hazards of smoking received wide attention, the federal government continued to profit from the tobacco trade through taxes and to actively participate in it by distributing cigarettes to servicemen. For decades, it has forced taxpayers to subsidize other people's health care, knowing that some of those people would smoke and get sick as a result.

Now the administration wants to blame the tobacco companies for that policy. It

wants to allocate the blame based on statistical models and market share, and it doesn't want to be inconvenienced by the fact that people know smoking is risky but choose to do it anyway.

Two years ago, the Justice Department apparently concluded that federal law did not permit such a money grab. Last year, there was talk of seeking legislation to authorize it. Suddenly, that's not necessary anymore.

"I'm convinced the decision to file suit was a legal one, not a political one," Matthew Myers, vice president of the Campaign for Tobacco-Free Kids, told *USA Today*. Myers probably also believes that Clinton and Monica Lewinsky were just good friends.

For the rest of us, though, it's clear that the relevant laws have not changed since the spring of 1997. To explain the administration's reversal, we have to look elsewhere.

By agreeing to settle the state lawsuits for $246 billion, Philip Morris et al. showed that you don't need a persuasive legal theory to squeeze money out of the tobacco industry. You just need staying power, coupled with the possibility of a catastrophic damage award. The Clinton administration is expected to seek more in damages—"hundreds of billions," the president said—than all the states combined.

Meanwhile, the failure of tobacco legislation in the summer of 1997, along with a federal appeals court ruling that the Food and Drug Administration does not have jurisdiction over cigarettes, has led anti-smoking activists to pursue policy changes through litigation. Emboldened by last fall's settlement with the states, which included restrictions on advertising and promotion, they want more concessions, such as FDA authority and industry fines for underage smoking.

This strategy of substituting consent decrees for legislation, which has been imitated by the cities that are now suing gun manufacturers, circumvents constitutional limits—the First and Second Amendments, for instance—as well as the democratic process.

Supporters of tobacco litigation like to pretend they are punishing evil corporations, but in fact it is smokers, the alleged victims of the cigarette companies, who pay for the lawsuits through higher prices. A federal settlement would impose what amounts to yet another tax hike on smokers, who are already reeling from recent increases in state levies and the price jump that followed the industry's deal with the states. Add the 15-cent increase approved by Congress in 1997 and the 55-cent hike Clinton is seeking, and the average price of cigarettes could rise to $4 or $5 a pack, compared to about $2 in 1997.

This burden falls disproportionately on people of modest means, who are more likely to smoke and who spend a larger share of their income on cigarettes when they do. More than half of the revenue from cigarette taxes comes from people with annual incomes below $30,000, more than a third from people making less than $20,000 a year. Yet Republicans who say they hate tax hikes and Democrats who claim to oppose regressive taxation somehow don't mind sticking it to this despised minority.

The explicit and de facto taxes on tobacco far exceed any credible estimate of the cost that smoking imposes on the rest of us. In 1989, when the average cigarette tax was just 38 cents a pack, researchers at the RAND Corporation concluded that it more than covered the habit's net external costs. The Congressional Research Service reached the same conclusion in 1994.

In fact, it increasingly looks like smokers are actually saving taxpayers money because they do not live as long as nonsmokers. In a 1994 paper, economist W. Kip Viscusi, then at Duke and now at Harvard, found that "the cost savings that results because of the premature deaths of smokers through their lower Social Security and pension costs will more than compensate for the added costs imposed by smokers....On balance there is a net cost savings to society."

That may be true even without considering Social Security: A 1997 study in *The New England Journal of Medicine* found that, if everyone stopped smoking, total medical spending would go up rather than down. In short, even if we accept the premise that public health insurance gives the government a license to tax risky products, smokers do not deserve the treatment they are getting. If anything, they deserve a rebate.

Why Uncle Sam's motto is now "I want your money."

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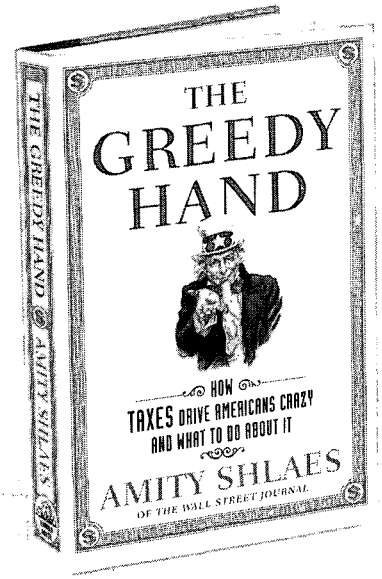
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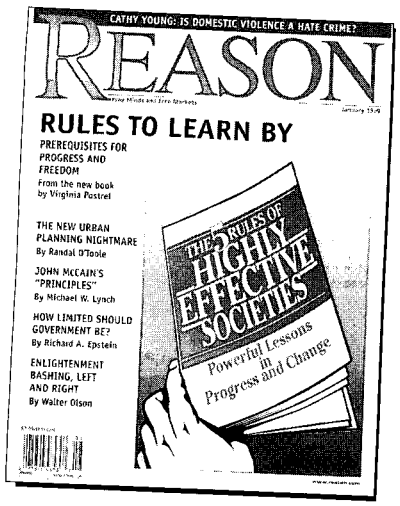
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THE RULES OF HIGHLY EFFECTIVE SOCIETIES
Powerful Lessons in Progress and Change

In Defense of Jefferson

Nick Gillespie's editorial "The Slave and the Intern" (January) omits a number of relevant facts.

First, Sally Hemings was the half-sister of Thomas Jefferson's late and much loved wife. Having children by her was a way of continuing his late wife's heredity. While this does not excuse a sexual relationship in which one party could not legally give or withhold consent, it is certainly mitigating. Sally Hemings spent her time in the Jefferson household and nursed both his wife and daughter through terminal illnesses. She was more a family member than a slave, and it is likely that the relationship was de facto consensual.

Thomas Jefferson did consider freeing his slaves, but the commonwealth of Virginia mandated that slave owners put up a bond for each slave freed so that no former slave would be on the public dole. Jefferson was land poor and could not comply.

Jefferson and the other Founding Fathers realized that a stand against slavery would have at that time prevented or significantly delayed the formation of a United States. They were anxious to form a nation with a derivative sense of nationhood. Absent that, the colonies might prove easy prey for European powers.

Thomas Jefferson did not commit perjury nor did he obstruct justice vis-à-vis his affair with Sally Hemings. There is no analogy with our current president. When Jefferson ran for his second term, his opponents made liberal use of his affair to attack him. It was no secret. I suspect that the timely appearance of the article in *Nature* was motivated more by its political spin than by any other factor.

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I expect more of REASON than editorials based on *New York Times* and *Washington Post* editorials. Had Nick Gillespie chosen to do his research elsewhere, he might have found that our third president has no acknowledged living direct descendants. The DNA samples used in the study were taken from descendants of Mr. Jefferson's uncle, Field Jefferson. Eugene A. Foster, the head of the team of geneticists who conducted the study, told *The Washington Times* that "the simplest, most easily explained, and most probable explanation of our data is that Thomas Jefferson was the father of Eston Hemings Jefferson."

The last three sentences of the *Nature* article suggest the weakness of this conclusion. "We cannot completely rule out other explanations of our findings based on illegitimacy in various lines of descent. For example, a male-line descendant of Field Jefferson could possibly have illegitimately fathered an ancestor of the presumed male-line descendant of Eston. But in the absence of historical evidence to support such possibilities, we consider them to be unlikely."

Given the times, the lack of evidence is hardly surprising. Based on a career as a criminal investigator, the only possible summation of this evidence I could report would be that the evidence proves it is more likely than not that someone in the Jefferson family was the father of Eston Hemings. There is no evidence that any male Jefferson had greater access to Sally Hemings than Thomas Jefferson, but neither is there evidence that no other Jefferson male had access to Sally Hemings. Hearsay evidence does exist that a nephew of Thomas Jefferson visited Monticello with some frequency and resided there for some period. The precise timing of such visits and residence is not established.

The first charge that Thomas Jefferson sired a child by Sally Hemings was published on September 1, 1802, in the *Richmond Recorder*. Staff writer James Callender alleged that Jefferson fathered Sally's eldest son, Tom. It should be noted that the *Recorder* was as much a foe of Thomas Jefferson's presidency as *Salon* is a friend of William Jefferson Clinton's presidency.

Callender's article further stated that Thomas Woodson's looks bore a "striking though sable resemblance to those of the president himself." Jefferson did not personally respond to these charges, but he never responded to attacks on his character by newspapers on principle. He later did make statements that indirectly denied Callender's charges. The *Nature* study showed that the known descendants of Thomas Woodson do not carry the distinctive Y chromosome and are not the descendants of any Jefferson. Callender died in 1803; Eston Hemings was not born until 1808 and could not have been the child Callender referred to.

As Dr. Foster told *The Washington Times*, reporters "went too far" in the conclusions they reported. Geneticist Carl Ladd, supervisor of the DNA unit of the Connecticut State Police, told the *Times*

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the study "doesn't mean bingo as to whether Jefferson is or is not the father." As for the accompanying *Nature* article by MIT geneticist Eric S. Lander and Mt. Holyoke historian Joseph J. Ellis, Dr. Foster rejected their conclusions, telling the *Times*, "They unnecessarily politicized something that was intended to be a piece of scientific work."

The reporting of this issue served the purposes of some. To see your publication adopt the lack of critical thinking which characterizes the "major media" belies the title of the magazine and disappoints me.

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It's disappointing to see REASON join the ranks of such media sources as *U.S. News & World Report* and National Public Radio in falsely reporting that a recent DNA study proves that Thomas Jefferson fathered at least one child with his slave Sally Hemings. Contrary to Nick Gillespie's assertion, the DNA study reported in *Nature* does not provide "irrefutable evidence," nor does it "settle" the matter of the paternity of Hemings' children. Rather, the *Nature* article is only the latest chapter of a nearly 200-year-old story of how the allegation has been used by various groups to exploit Jefferson symbolically to advance their own partisan agendas.

The paternity allegation against Jefferson originated in 1802 as a libel raised by James Callender, a hatchet journalist and disappointed job seeker, and spread by Jefferson's political opponents in the bitterly partisan Federalist press. The story then was resurrected about 50 years later by abolitionist Whig and Republican newspapers that found in the oral tradition of the Hemings descendants a convenient vehicle for bashing Jefferson and the Democratic Party.

Today, as Nick Gillespie notes, the supposed confirmation of the Hemings story is being used by Bill Clinton's apologists as part of their "every President has done it" defense. In fact, what the genetic study by Eugene Foster found was a match in Y chromosome DNA between descendants of Sally Hemings' youngest male child, Eston, and descendants of Field Jefferson, Thomas Jefferson's paternal uncle. By itself, the

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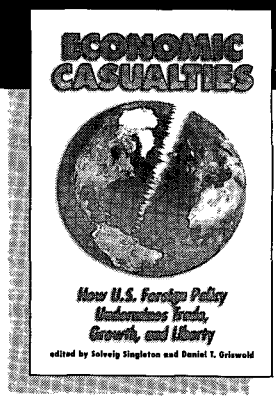
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study suggests only that a lineal male descendant of Thomas Jefferson's paternal grandfather was the father of Eston Hemings. Genetically, the test results cannot positively show paternity by Thomas Jefferson; it's equally possible that the father was Thomas's brother, Randolph, or one of Randolph's six sons, who were frequently at Monticello and for whom there's at least as strong circumstantial evidence of paternity as there is for Jefferson himself.

The possibility that Randolph Jefferson or one of his sons was the true father of Eston Hemings has been overlooked by virtually all scholars who have written about the Sally Hemings story, including historian Joseph Ellis and law professor Annette Gordon-Reed, who devotes much of her book, *Thomas Jefferson and Sally Hemings: An American Controversy,* to casting doubt on the claim by various Jefferson scholars that the real father of Hemings' children was one of Jefferson's nephews, Peter and Samuel Carr, the sons of Jefferson's sister. Dr. Foster's study weighs against paternity by the Carr brothers, just as it also finds no Jefferson DNA match with the descendants of Sally Hemings' oldest son, Thomas Woodson, who was the subject of the original allegation. Undeterred, Woodson's descendants have noted that the DNA evidence could have been lost through subsequent illegitimacy in the Woodson line—the fundamental flaw that casts doubt on all the results of Foster's study, including the findings of no match with Carr descendants as well as the match with Field Jefferson descendants.

In short, the DNA tests prove nothing. It's understandable why Hemings' descendants so passionately wish the DNA study to confirm the oral tradition they've taken as a matter of faith. It's even understandable why leftist historians today might want to use the story of Jefferson's "slave mistress" somehow to defend Bill Clinton's use of presidential power for sexual gratification. What's less clear is why so many other Americans—including many reputable scholars—continue to be so obsessed with the Sally Hemings story. Is it just because it adds additional tragedy to the irony that Jefferson, author of the Declaration of Independence and champion of individual rights, was himself a slaveowner? Or could it be that by focusing on Jefferson's private life, they'd like to distract us from his public legacy, including the clear, undisputed evidence of Jefferson's ideas about limited constitutional government?

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Nick Gillespie plays somewhat fast and loose with the historical record in his portrayal of the affair between Thomas Jefferson and Sally Hemings. First, Mr. Gillespie insinuates that Jefferson coerced Hemings into having this relationship. What evidence is there for this? Surely not the bare fact that Hemings bore Jefferson a child, for a child can be the product of consensual sex. While Hemings' status as a slave suggests the possibility that she was raped, there is also the possibility that human passions may have stirred the hearts of Thomas and Sally to transcend the roles of master and slave, and face each other as lovers instead. We just don't know enough about their relationship to condemn the sexual aspects of it as exploitative.

Mr. Gillespie further argues that the failure of Jefferson and the other Founding Fathers to abolish slavery is a "moral failure of the first rank" in view of the fact that abolition was widely debated during Jefferson's lifetime but not adopted. However, Mr. Gillespie neglects to tell his readers that Jefferson was engaged in this debate on the abolitionist side. Specifically, Jefferson advocated gradual emancipation coupled with a return of ex-slaves to Africa, a process he hoped would keep the peace and minimize dislocations in the economy. It is clear that he had no desire to deny the fruits of liberty to Sally's descendants; the opprobrium for that falls on those contemporaries of Jefferson who refused to support the various plans put forward for emancipation.

To be sure, Jefferson's advocacy of emancipation doesn't excuse his own failure to compensate and manumit his own slaves. However, this particular moral shortcoming was well known long before Jefferson's paternity of one of Hemings' children was proven. The confirmation of the Jefferson-Hemings affair does not diminish Jefferson further, though it does seem to unduly provoke certain modern observers who are uncomfortable with the reality of interracial relationships.

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Nick Gillespie replies: There is some verbal slippage in my editorial about Thomas Jefferson and Sally Hemings. In the first paragraph, I wrote of "seemingly irrefutable evidence" that Jefferson fathered at least one of Hemings' children. In my second paragraph, however, I eschewed any qualifications whatsoever, a conclusion not fully supported by the genetic analysis published last year in *Nature* by pathologist Eugene A. Foster.

Edward F. Haertel is right that Foster has taken journalists to task for their less-than-careful interpretation of his work. While Jefferson's paternity has not been proven beyond all doubt, it remains, I think, the most likely interpretation of the available data, both genetic and historical. As Foster himself wrote in a letter to *Nature* that criticized the journal's sensationalistic presentation of his findings, "When we embarked on this study we knew that the results could not be conclusive, but we hoped to obtain some objective data that would tilt the weight of the evidence in one direction or another. We think we have provided such data and that the modest, probabilistic interpretations we have made are tenable at present."

In any case, as I emphasized in my piece, Jefferson's probable parental status only adds to what I called the "scandalous paradox" of his life: simultaneously articulating universal human rights while owning slaves. As I made clear in my editorial, I find historian Joseph J. Ellis and geneticist Eric S. Lander's cheap, partisan use of Foster's study to somehow exonerate Bill Clinton nothing short of grotesque. But I disagree emphatically with David N. Mayer that dwelling on Jefferson's paradox is only a means by which historians can "distract" us from Jefferson's notions of limited government.

Such a motive hardly exhausts the reasons why people might brood over such a massive contradiction in one of the most important figures in U.S. history. Slavery, as Arthur A. Ekirch Jr. and others have

pointed out, "stood out as the most direct challenge to American liberalism" and it remains intriguing and disturbing that Jefferson—of all people—could have participated so actively in it even as he acknowledged its absolute illegitimacy. I feel no need to save Jefferson from his own hypocrisy even as I recognize that he articulated the rights by which his actions could be fully condemned (or, for that matter, a slave revolt justified). If nothing else, his life underscores the need to be a nation of laws and not of men. Indeed, Gloria M. Stewart and Vincent Cook suggest reasons why Jefferson did not free his slaves that do little more than illustrate his unwillingness to sacrifice his material well-being and position for his ideals.

Stewart suggests that the Jefferson-Hemings "relationship" was "de facto consensual," which may well have been the case. But it hardly seems a feather in Jefferson's cap that he may have only bedded those slaves who wanted to sleep with him. Cook's suggestion that continued attention to the relationship is due to "modern observers" who are "uncomfortable with the reality of interracial relationships" similarly ignores the fact that the troubling aspect of the relationship has nothing to do with race and everything to do with slavery.

Contra-dictions

Glenn Garvin's "Hooked on Fantasies" (January) hit the mark. Besides being one of the few serious journalists to write objectively about the contras, he is almost certainly the one who has been most painstaking in his research on the whole Central American scene from the early 1980s to the present. The history of that period has been so distorted by Sandinista apologists that it will remain for another generation of historians to separate fact from fiction. Garvin's writings on the subject will be a good place to start.

Gary Webb's *Dark Alliance: The CIA, the Contras and the Cocaine Explosion*, apart from being pure poppycock, has served a sinister purpose. It launched another internal investigation within the CIA of the type that usually results in some poor middle-level chief of station losing his job. In this case, however, nearly all of the station and base chiefs who served in Central America during this period had already been hounded out of the agency by other liberal-inspired witch hunts of one kind or another. The real sin of these officers was to offend congressional liberals and their supporters by running successful programs which forced fair elections in Nicaragua that the Sandinistas could not win.

Their reward for this service has been humiliation and early retirement. Enough already.

James L. Adkins
Retired CIA Officer
Huntington, WV

Special Letters Section

A special letters section responding to the "Dense Thinkers" (January) article begins on page 48.

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Damned Revenuers

By Ryan H. Sager

Why do people hate the IRS? With the delivery of the annual report of the Internal Revenue Service's own national taxpayer advocate to Congress, let us count the ways.

For the third year running, the report cites the mind-numbing complexity of federal tax laws as the biggest cause of bad feelings. Even the most basic aspects of the law, such as filing status and exemptions, "contain exceptions and special rules that many taxpayers do not understand," the report's principal author told *The Wall Street Journal*. Other major gripes include the length of the tax process, the IRS's lack of responsiveness, an incomprehensible phone answering system, and employees' generally rotten attitudes toward taxpayers.

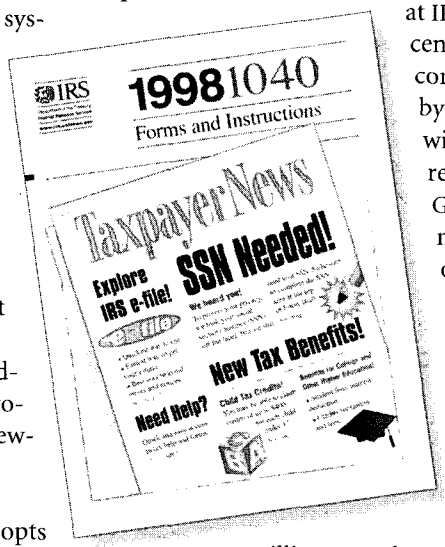
So what kind of fix does the advocate advocate? Eschewing bold, sweeping moves, he opts instead for a slew of "simplification" proposals, such as a clearer definition of a qualifying child for the Earned Income Tax Credit. While such measures may mollify Congress—which regularly passes "paperwork reduction" acts and other simplification schemes—they seem unlikely to stop the hate.

Tax Nightmares

By Mariel Garza

If the mere act of filing your annual tax return isn't unsettling enough, here's something else to keep you tossing at night: The Internal Revenue Service is doing a lousy job of protecting your annual filings, including your payments and your personal information.

That's the conclusion of a recent General Accounting Office study that documents how the IRS screws up in some astounding ways. During peak filing months, for instance, the agency hires thousands of temps to handle millions of dollars worth of receipts but doesn't get background check results until well after the workers are gone. Between 1995 and 1997, says the GAO, 12 thefts at IRS service centers were committed by temps with arrest records. The GAO also notes that one district office used a bike messenger to deliver daily deposits of up to $100 million. Another courier reportedly left a deposit of more than $200 million unattended in an open vehicle.



So what does this mean to the taxpayer? The GAO warns you can get hurt by this lax tax system in two basic ways. First, your payments can be stolen by check cloning operations (that's what happened when a bad employee sent checks to members of a New York crime ring). Second, criminals can use your sensitive personal information—bank account numbers, addresses, signatures, and Social Security numbers—to perpetrate identity fraud. Pleasant dreams.

Balance Sheet

By Jeff A. Taylor

ASSETS

▲ **Missing Link.** Real science, persistence, and a little luck combine to tell researchers that the HIV virus likely started out 50 years ago as a virus that infects chimpanzees. A key piece of evidence comes from a chimp which was a NASA test subject, a concrete case of animal testing producing tangible benefits. Best of all, the new data may help point toward a cure for AIDS.

▲ **Premium Blend.** A simpler name would be "vouchers" or even "Medistamps," but we are stuck with Medicare Premium Support. Sen. John Breaux (D-La.) and the bipartisan Medicare Reform Commission want to route federal dollars directly to patients, who would use the money to buy their own health coverage. A sure sign that the proposal moves in the right direction: The Clinton administration hates it.

▲ **Privacy—What A Concept.** After scads of negative publicity, including thousands of nasty comments filed with federal agencies, a plan to deputize banks in the federal war against money laundering, i.e., the unmonitored use of money, is losing steam. (See "Lost in the Wash," Mar.) The American Bankers Association backs away from "know your customer" regs, and Congress is looking askance at the idea.

▲ **The Little O.S. That Could.** Linux, the do-it-yourself flavor of the Unix operating system that runs on desktop PCs, gets backing from big boys Dell and IBM. This provides another choice for the Windows haters of the world. But this market process goes unnoticed by the Department of Justice, which still has Bill Gates sweating under a bare bulb in a dank room somewhere.

Voucher Victory

By Michael W. Lynch

In April 1997, the Arizona legislature passed a $500 tax credit for donations to private scholarship programs. Predictably, the Arizona Education Association, the Arizona School Board Association, People for the American Way, and other special-interest groups allied with the educational establishment sued. "We think it's a voucher [plan] in disguise," then–AEA President Kay Lybeck told REASON. "But I must admit that it is well written and it will be difficult to counter." (See "Educating Arizona," July 1997.)

Lybeck was right, at least on those last two points. This January, the Arizona Supreme Court deemed the tax credit constitutional. The "primary beneficiaries of this credit are taxpayers who contribute to [the scholarship funds] and parents who might otherwise be deprived of an opportunity to make meaningful decisions about their children's educations, and the children themselves," said the court. It also had the temerity to rule that a tax

▼ **The Affluent Network.** PBS plans a 24-hour, all-digital channel for kids come fall. Richie Rich and friends with eight to 10 grand to blow on a digital set will see reruns of *Teletubbies* in startling clarity. Joe Taxpayer remains stuck with the WWF on basic cable. PBS President Ervin Duggan details his market research thusly, "We are a *Field of Dreams* people—we believe if you build it, they will come."

▼ **Brazil Nuts.** A little noticed component of the Brazil's financial meltdown has been a rebellion by the leftist leaders of several large states. The governors of Minas Gerais, Rio de Janeiro, and Rio Grande do Sul have refused to make their share of debt payments to the federal government and instead want more make-work projects. They are also halting the privatization of state-run banks and utilities.

▼ **The Siege.** Defense Secretary William Cohen decides that it would be great to fight terrorism by turning the Pentagon loose inside the United States. New anti-terrorism regs would give the military a prominent role in responding to domestic terrorist incidents. Why not skip a few steps and sign the 82nd Airborne over to Janet Reno right now?

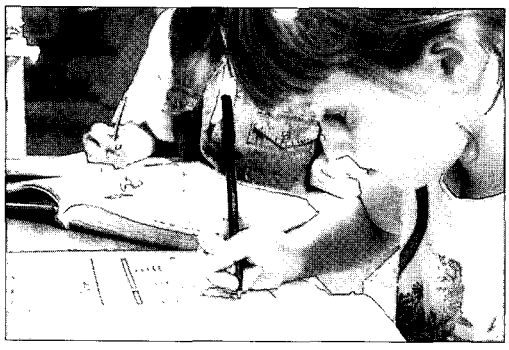
▼ **Next Stop, Powder Keg.** It is a good bet that 2,000 to 3,000 American troops will soon head to Kosovo, quite possibly under the command of a European power. Once there they will find an Albanian majority yearning to kick out the Serbs and Serbs who think the land is their birthright. When and how the troops come back is anybody's guess, including the people planning the mission.

LIABILITIES

credit, which allows a person to keep more of his own income, is not public spending.

Arizona's educrats are not amused. "I think it's unfortunate that the state has decided to find ways to support parochial and private education," says Penny Kotterman, current president of the AEA, which is pondering an appeal to the United States Supreme Court. "The net effect of this legislation is less dollars into the general fund," Kotterman laments.

But bad news for the Grand Canyon state's public schools may well be good news for its students. "We can help innumerable kids now," says Jack McVaugh of the Arizona School Choice Trust, a foundation that plans to pass out 500 scholarships next fall. McVaugh expects the court decision to spur more donations. "Our goal" he says, "is to [help] every child in Arizona who wants to get out of a public school—or wherever they are—have that opportunity."



Sperm Wars

By Kenneth Silber

Here's some good news from the frontiers of science: Sperm counts are not declining. Then again, what's good news for most people is bad news for environmentalists who want to scare people out of their wits.

In recent years, Greenpeace and other groups have pointed to an apparent decline in sperm counts in America and elsewhere as evidence of the dangers posed by man-made chemicals. Citing the threat of hormonal problems and infertility, activists have called for sweeping bans on entire classes of pesticides, plastics, detergents, and other products. Products that contain chlorine have been singled out as particularly dangerous.

When it was pointed out that no clear link had been established between sperm counts and consumer products, environmentalists countered with the "Precautionary Principle"—the idea that possibly harmful products should be banned even before the evidence is in, just to be on the safe side. (See "Precautionary Tale," page 36.) To drive home the point, environmentalists conjured up nightmare scenarios of the human race becoming unable to reproduce in the 21st century.

Dubious though such arguments were, there did seem to be at least some reason for concern: Sperm counts had apparently dropped from the late 1930s to the mid-1990s. But in the February issue of the *Journal of Urology*, researchers at Columbia-Presbyterian Medical Center document that the decline was only a statistical illusion.

The confusion arose ▶

SOURCES

For a World Wide Web "portal" site to all sorts of writings about the arts, philosophy, and other humanities, check out *Arts & Letters Daily: An Updated Report of News and Reviews* at **www.cybereditions.com/aldaily/**. The site includes links to publications ranging from *Boston Review* to *Le Monde* to *Wilson Quarterly*. It also features dozens of constantly changing links to articles and topics. A recent day's offering included links to pieces about the demise of Duke University's vaunted English Department, obituaries for the novelist Iris Murdoch, and a British review of *Careless Love: The Unmaking of Elvis Presley*, by Peter Guralnick.

Those on the other side of the two-cultures split might want to check out a sister site, *Scitech Daily* (**www.scitechdaily.com**), which provides links to publications ranging from *Air & Space* to *The Why Files* and to science-oriented pieces appearing in a wide variety of places. Recent offerings ranged from articles on the Victorians' abiding interest in mesmerism to the supposed side effects of mercury-amalgam dental fillings to analyses of missile-defense plans.

BRICKBATS

◆ Deanna Emard was convicted of stabbing her common-law husband to death, but the Vancouver woman doesn't think she should go to jail. Why? Because she's a Metis Indian, and Canadian law tells judges they should consider aboriginal background a mitigating factor when handing down sentences. The Vancouver Metis Association plans to speak in court on Emard's behalf. Emard isn't the only person trying to use the law. Jamie Gladue, also convicted of stabbing her husband to death, has asked an appellate court for a lighter sentence than the three years she got. If the two win their cases, it could make marriage to a Canadian Indian a dangerous thing.

◆ Not that other people don't have rights in Vancouver. Ronald Brown has been declared by a judge there to be an "irredeemable drunk." The judge based his decision on, among other things, the fact that Brown has been repeatedly fired from jobs for his drunkenness. This ruling qualifies Brown for monthly disability payments.

◆ Remove your child before folding the baby stroller. If you think that advice is so obvious that it doesn't even need to be said, you aren't a manufacturer of baby strollers. That was the winner in the Michigan Lawsuit Abuse Watch's Wacky Warning Label Contest. Among the runners-up: a warning on sleeping pills that they might cause drowsiness and a label on a laser printer cartridge advising people not to eat the toner.

Henry Payne

GORE·2000
H. Payne
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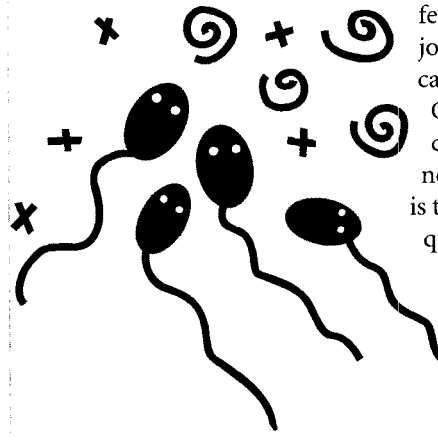
"...OUR TOBACCO SUIT WILL FUND MEDICAID, OUR GUN MAKERS SUIT WILL FUND MEDICARE, OUR MICROSOFT SUIT WILL FUND COMPUTERS IN PUBLIC SCHOOLS, OUR ALCOHOLIC BEVERAGES SUIT WILL..."

from an intriguing fact: Sperm counts vary from one city to another. The reasons for such geographic variation are not yet understood—they may have to do with climate and seasons, or with factors such as demography and nutrition. They may be partly due to different methods used to select volunteers in different times and places. In any event, it so happens that most men studied in the early decades came from a single city, the one that has the highest measured sperm counts in America: New York.

To be precise, 87 percent of those studied before 1970 were from New York. After 1970, as more wide-ranging research was conducted, New York's share of the studied population shrank to 25 percent. On average, New York–based studies showed sperm levels about a third higher than non–New York studies (the New York effect skewed international statistics as well). After correcting for the disproportionate emphasis on New York in the early data, the downward trend disappears. As the Columbia-Presbyterian researchers put it, "there appears to be no significant change in sperm counts in the U.S. during the last 60 years."



New York's high rank in sperm counts may boost a few egos or lead to some jokes (at the very least, we can expect Mayor Rudolph Giuliani to take most of the credit). But the findings are no laughing matter. Neither is the answer to the serious question raised by them: Will environmental groups retract their unsupported claims that man-made chemicals are wreaking hormonal havoc?

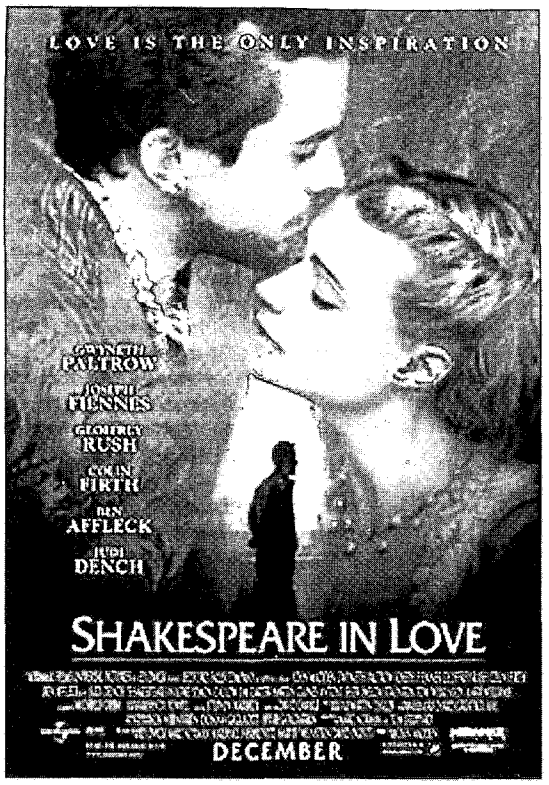
General Nonsense

By Jacob Sullum

When Gen. Barry McCaffrey took over the Office of National Drug Control Policy in 1996, he invited Americans to think about the difference between drugs as an enemy and drugs as a cancer. Lately, though, the former general has been prompting us to ponder the fine line between a gaffe and a fib.

"Marijuana is now the second-leading cause of car crashes among young people," McCaffrey wrote in *USA Today* last October. Dale Gieringer, California coordinator of the National Organization for the Reform of Marijuana Laws, called McCaffrey's office for the source of this claim and was referred to the National Highway Traffic Safety Administration. A NHTSA spokesman confirmed that marijuana is the second most common

ARTIFACT



Love's Labour's Relocated

Is the man in this *Shakespeare In Love* poster supposed to be the Bard of Avon? The usual bloodless likeness—a stoic old head wrapped in a tight Elizabethan collar—has long been iconic, but this piece of Hollywood marketing suggests not only that Shakespeare was once young but that he was human. Is nothing sacred?

Shakespeare has spent a century as cultural spinach; some cultists have even thought his works too sacred to be performed. Yet he was once American pop. In the 19th century, Lawrence W. Levine points out in *Highbrow/Lowbrow*, the plays appealed to all classes for their melodrama and oratory. Singers, dancers, and comics even appeared between the (often edited) acts. Shakespeare's later capture by the polite classes was a turning point in establishing class-based cultural authority.

The reappearance of a living, breathing Shakespeare suggests the waning of gatekeeper authority. Better, the film—nominated for 13 Oscars—revives a popular view of the man. There was actually a 19th-century melodrama by Robert Penn Smith called *Shakespeare In Love*. Like the film, it was about a lovestruck youth, and it too invited audiences to perceive him not as an awesome icon but as fully human. After all, love, first learned in a lady's eyes, lives not alone immured in the brain.

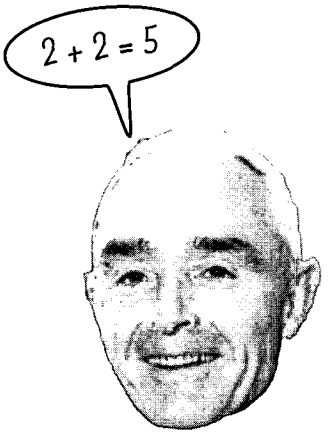
—Charles Paul Freund

drug *detected* after fatal crashes but emphasized that it does not necessarily *cause* those accidents.

As Gieringer noted in the November issue of *California NORML Reports*, a 1990–91 study by NHTSA found that 52 percent of drivers in fatal crashes had alcohol in their blood, compared to 7 percent with traces of marijuana. In analyzing the role that drugs played in the crashes, NHTSA found "no indication that marijuana by itself was a cause of fatal accidents."

Perhaps this distinction is too subtle for a bureaucrat to grasp. But anyone who keeps track of a $17 billion annual budget should understand the difference between one-quarter and two. "The murder rate in Holland is double that in the United States," McCaffrey said in July 1998, attributing the difference to Dutch tolerance of drug use. In fact, as the Dutch government was quick to point out, the U.S. murder rate is about four times as high as Holland's.

Well, numbers are tricky. A drug czar has to focus on



the big picture and avoid getting bogged down in the details. Of course, sweeping statements can also be hazardous. "There is not a shred of scientific evidence that shows that smoked marijuana is useful or needed," McCaffrey has said, criticizing the medical marijuana movement. To anyone familiar with the substantial body of literature on the therapeutic uses of cannabis, such a claim signifies either appalling ignorance or bald-faced mendacity. Given McCaffrey's other misstatements, it's a hard to call to make.

Renaming History

By Mariel Garza

Mt. Reagan, Alaska? Reagansburg, Poland? Planet Reagan? These places don't exist—not yet, anyway. But if the folks heading the Ronald Reagan Legacy Project get their way, every state in the country—and even some other countries— will eventually have some landmark named after the president who attacked government as "the problem."

Grover Norquist, president of Americans for Tax Reform, dreamed up the naming plan in 1997 as a way to instill appreciation for the Gipper. The country isn't quite sure how it feels about the Reagan years, says Norquist, who worries that the former actor's presidency is doing a slow fade in the public imagination. "That must not happen to the legacy of Ronald Reagan," declares Norquist.

The legacy project had its first big success early in 1998 with the renaming of the Washington (D.C.) National Airport to include Reagan's name. A few months later, Florida state officials agreed to rename the Florida Turnpike (I-75) after Reagan. And there will likely ▶

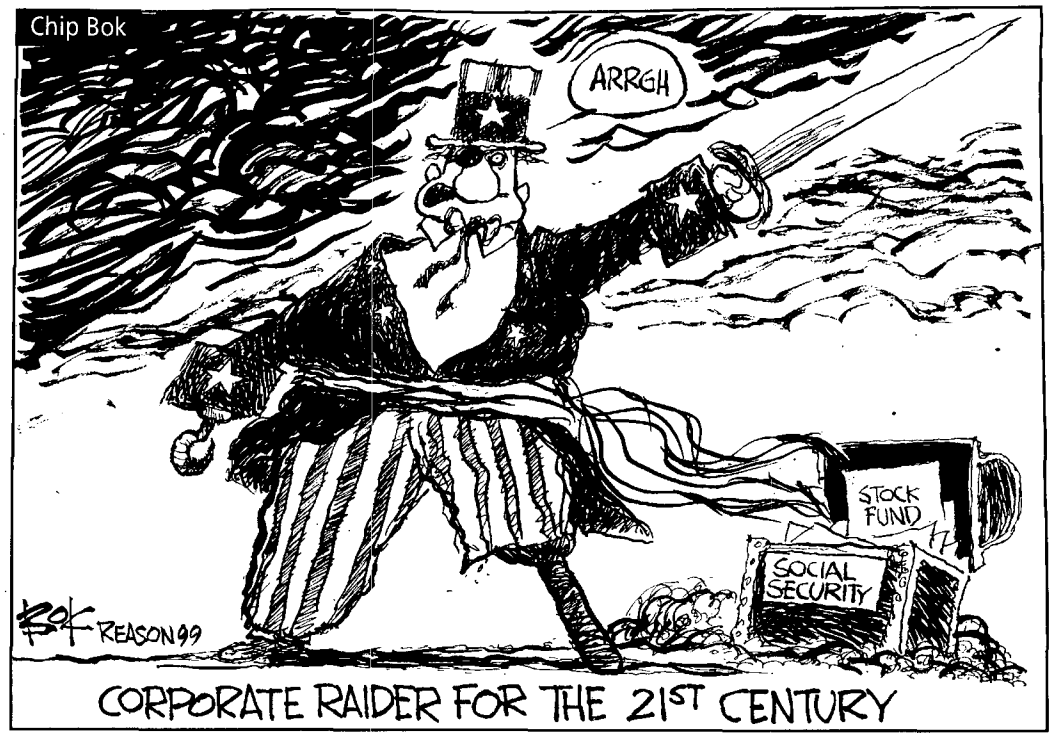
BRICKBATS

◆ Rosie Nelson is dead, and she's not too happy about it. Her problem started with a phone call from her bank. The Treasury Department had called the bank asking it to return the Social Security check she deposited. The feds said she was dead. Nelson disputed the claim. It was the third time in four months that the U.S. government had declared Nelson dead and tried to stop her Social Security benefits.

◆ Indian authorities have banned a play that depicts the late prime minister Jawaharlal Nehru as a lovesick man pining for the wife of Lord Mountbatten. Hindu nationalists, who wanted to stage the play, blame Nehru for the partition of India. But the government said the play might spark violent protests.

● Meanwhile, in Pakistan, the country split off from India, the national assembly approved a constitutional amendment obliging the federal government to enforce prayers five times daily and to collect religious tithes.

◆ Actor Christopher Reeve, paralyzed in a horse accident, wants to walk again, and he's become an advocate of spinal cord research. That has made him an enemy to many animal rights activists. Even some in the Hollywood community have turned on Reeve. "The sad thing about this is just because it's Christopher who is injured, researchers are breaking animals' spines by the thousands in order to find out how to get nerve regrowth," said actress Linda Blair.



be a Mt. Reagan designated sometime this year by a group of climbers who plan to claim an anonymous Alaska peak in the statesman's name.

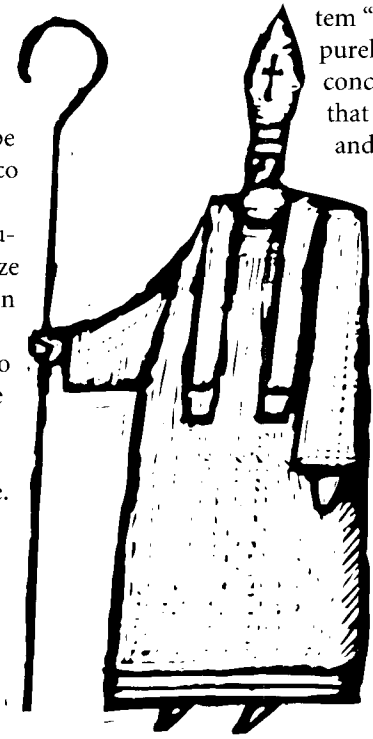
The effort is also stretching to Eastern Europe, where Reagan's role in destroying the Soviet Union makes the project an easy sell. "Most of the people there are pretty fond of Reagan, even more so than some people here in America," says Michael Kamburowski, executive director of the legacy project.

To be sure, there's more than a little irony in naming public facilities after a president who campaigned on reducing federal expenditures. The inconsistency is one reason the renaming of the D.C. airport caused a controversy. But Kamburowski says his group is seeking only "appropriate" targets for the Reagan brand. Changing the airport name made sense, he says, because Reagan was instrumental in turning the airport's federal control over to a local authority.

Papal Beef

By Charles Paul Freund

Having successfully dispensed with both communism and liberation theology, Pope John Paul II has targeted the Church's two remaining major problems in the Western Hemisphere: Protestantism and capitalism.



In what might be termed his Max Weber tour, the pope visited Mexico City and St. Louis in January to energize the faithful on the eve of a Jubilee and to articulate the Vatican's post–Cold War message. The papal entourage's Mexican costs were picked up by two dozen multinational corporations, who in return became "official sponsors" of His Holiness.

John Paul's remarks about Protestant missionaries and their alleged coercion of converts received little U.S. attention. His anti-capitalism, however, made headlines. The pontiff decried surging "neoliberalism," a system "based on a purely economic conception of man" that holds "profit and law of the markets as its only parameters." In such a world, said the pope, "the powerful predominate, setting aside and even eliminating the powerless."

Given that this message was underwritten by, among oth-

ers, Mercedes-Benz, Federal Express, Hewlett-Packard, and Sheraton, it resonated oddly. Pepsi, for example, was presenting itself on billboards as refreshment for spiritual palates (its tagline was, "Mexico, Always Faithful"). The most controversial arrangement involved a brand of potato chips owned by Frito-Lay, which bought the right to stuff a variety of little John Paul II trading cards into its bags of chips.

Trading in things churchly has been a notorious source of difficulty for the Vatican in the past. Most famously, the indulgence business was a major reason for the spread of Protestantism in the first place. But while the potato chip deal may not compare with the paid remission of sin, the commercialization of the pope (and of Mexico's patron saint, the Virgin of Guadalupe) astounded many observers, who charged church officials with hypocrisy.

Perhaps they should have charged them with irony instead. At a news conference called to address the din of criticism, the papal nuncio to Mexico and the archbishop of Mexico City explained the arrangements this way: "We live in an era of advertising, and we are men of this era."

DATA

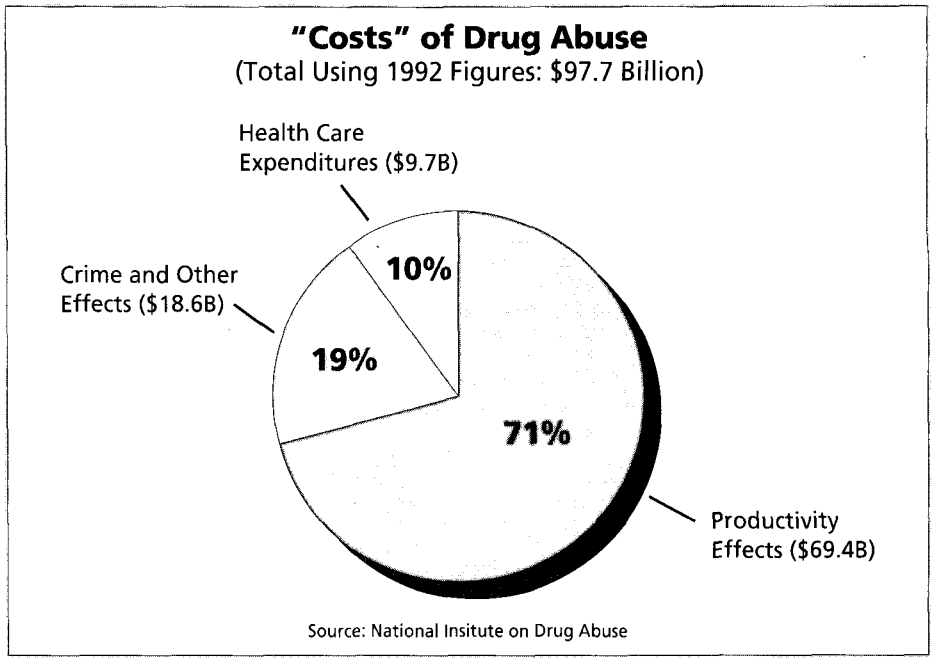
High Numbers

By Jacob Sullum

"Drug Abuse Cost to Society Set at $97.7 Billion," announces *NIDA Notes*, a publication of the National Institute on Drug Abuse. Says NIDA Director Alan Leshner, "We must publicize these cost-to-society estimates to educate people that drug abuse is enormously expensive to the entire Nation." And no doubt they will. But for all its seeming precision, the estimate is mostly an exercise in conceptual confusion.

The biggest component of the estimate is "productivity effects," a category that includes impaired productivity attributed to drug use (based on questionable assumptions), income lost because of "drug-related" deaths (most of which are not caused by drugs themselves), and "legitimate" income foregone by drug dealers and prostitutes (as if illicit earnings have no value). The researchers also count money that would have been earned by offenders had they not been imprisoned, thereby attributing a cost of suppressing drug use to drug use itself.

That last trick is even clearer in the "crime" category, which includes money spent on drug law enforcement, plus the costs of theft and violence fostered by prohibition. Similarly, "health care expenditures" include drug treatment, often mandated by the government, and costs associated with AIDS and hepatitis, which spread more readily because of anti-paraphernalia policies that encourage needle sharing.



Road Rage

By Jesse Walker

For more than 20 years, the federal government has been steadily shrinking the size of the average American car by raising fuel efficiency standards: Smaller, lighter cars tend to go farther on a gallon of gas. This policy has sparked a lot of angry criticism, much of it relating to auto safety: Smaller, lighter cars also tend to go farther after being hit. Still, officials at the National Highway Traffic Safety Administration will soon lobby Congress to raise fuel efficiency standards for cars and light trucks; as before, the fight will turn on whether anyone has a "compelling" need to drive larger but less fuel-efficient cars. (You try fitting four kids in the back seat of a Camry.)

Meanwhile, another wing of the federal government—the Federal Fleet Policy Council, or FedFleet—wants regulators to *loosen*, not tighten, fuel economy rules. Recently, it asked for a revision to the Federal Property Management Regulations, which govern what cars government agencies can use. "The mandatory provisions affecting sizes of motor vehicles purchased by Federal agencies are, in some instances, hindering the missions of agencies," it wrote. "These regulations were developed in the early 1970s when gasoline was in short supply and motor vehicles were much larger than today's vehicles." FedFleet wants to revise the General Services Administration's rules "to allow more flexibil-▶

BRICKBATS

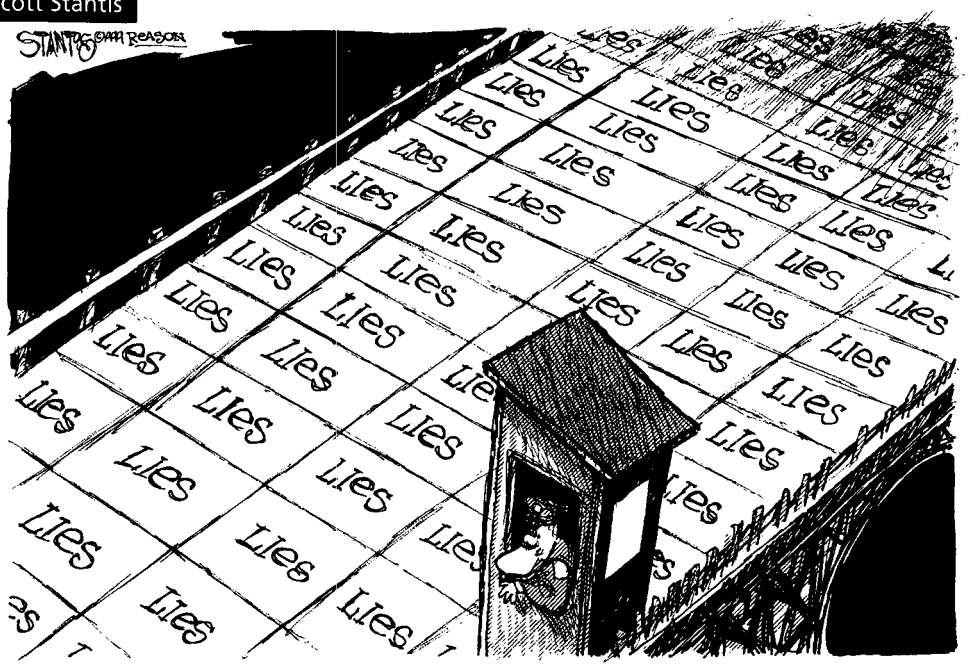
♦ Dwayne Richardson wants to be a subway motorman, but he was turned down after he failed a timed walking test. He thought the requirement unfairly discriminated against him, so he sued New York City's Metropolitan Transit Authority. Though he won the case, it isn't clear that he'll ever be a motorman: At 450 pounds, he may not be able to fit into the phone booth–sized cabs.

● If you go to a strip club in Plainfield, Connecticut, bring plenty of cash and a photo ID. Clubs must not only check your age, they must also make sure you aren't on a list of sex offenders. The town will fine establishments if they admit known offenders. It wants to keep perverts from getting worked up and committing sex crimes. But strip club owner Joseph Quinn says if that's the logic behind the law, it should also require cable companies to conduct checks before they let someone see a sexy R-rated movie, the phone company to check before someone can call a phone sex line, the library to keep sex offenders from viewing prints of nudes, and the community pool to keep sex criminals from looking at all the people in bathing suits.

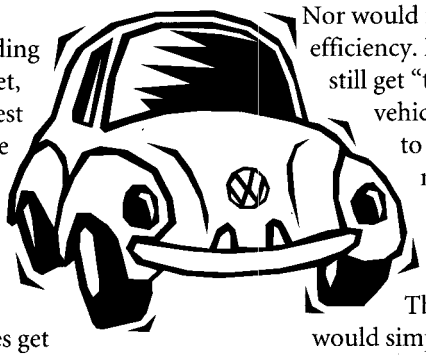
♦ Bob Jones University, a fundamentalist school, sent letters to alumni threatening to arrest any gay graduates who return to campus. The university has since backed down partially. It says they may visit the school's museum, since a ban could affect the gallery's tax-exempt status.

—Charles Oliver

Scott Stantis



ity when choosing the size of vehicle."



According to FedFleet, the neediest drivers are in law enforcement, where agents sometimes get stuck with cars too small for the features of a standard police package. Other government workers often must wedge themselves into subcompacts. Sometimes that isn't a problem; other times the driver is, er, tall. "In most instances, a compact vehicle will serve an agency's needs," says FedFleet. "However, with the continual down sizing of vehicles, more and more activities are finding these vehicles too small, either for the individuals that travel in them or to complete agency missions."

The proposed change won't affect the federal deficit. If an agency wants larger cars, it'll still have to pay for them out of its own budget. Nor would it destroy fuel efficiency. Drivers will still get "the smallest vehicle available to complete the mission," according to the GSA's Mike Moses. The change would simply allow more common sense in distributing public automobiles.

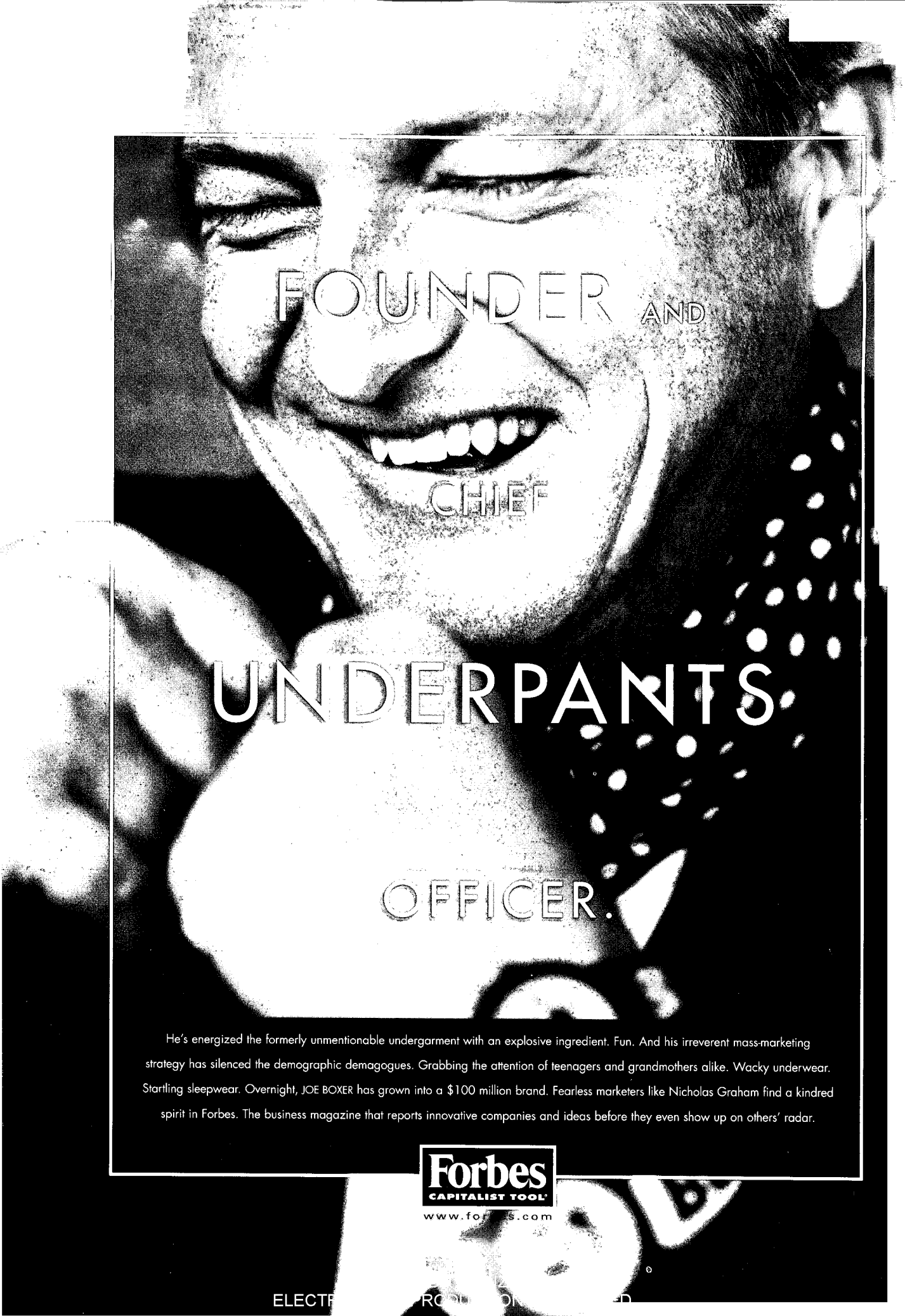
That certainly sounds reasonable—and more than a bit hypocritical. After all, if bureaucrats spending other people's money should have the right to weigh the relative merits of fuel efficiency, road safety, and whatever else they think is important in a vehicle, why shouldn't the rest of us be able to do the same with our own money? ◆

☛ "*Time* is part of a national conspiracy of carbon copies that call themselves independent news magazines yet display remarkably similar (and remarkably wrong, as well) positions on a wide range of issues."

—from "The Savage, the Syllogism, and the Revolution"

☛ "While the Federal Communications Commission was voting, 6–1 on Feb. 5, to ban cigarette advertising from television and radio, the American Tobacco Company was running (and is still running) advertising with such claims as 'U.S. government report... found Carlton lowest in "tar"...' Thus does American Tobacco sanction its own persecution."

—from "News and Comment"



He's energized the formerly unmentionable undergarment with an explosive ingredient. Fun. And his irreverent mass-marketing strategy has silenced the demographic demagogues. Grabbing the attention of teenagers and grandmothers alike. Wacky underwear. Startling sleepwear. Overnight, JOE BOXER has grown into a $100 million brand. Fearless marketers like Nicholas Graham find a kindred spirit in Forbes. The business magazine that reports innovative companies and ideas before they even show up on others' radar.

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Judgment Days

In which our man in Washington discovers the newest conservative outrage, prepares for Y2K, and gets a secret identity

By Michael W. Lynch

Date: Mon, Jan 25, 1999 12:54:57 AM
From: mlynch@reasondc.org
Subj: Presidential Hopefuls

"Where's the press registration?" I asked a young man who looked about the age at which one is eager to shave but doesn't quite have the raw material. "Go straight, take a left, take a right, go down the hall, and I think it's on the right."

I journeyed down the hall, past booths sponsored by Americans for Tax Reform, the Eagle Forum, and the Christian Action Network. I paused at the Traditional Values Coalition booth, which had materials comparing James C. Hormel, Clinton's choice for U.S. ambassador to Luxembourg, to the "Sisters of Perpetual Indulgence," a particularly creative group of gay men in San Francisco. For a brief moment, I was homesick.

I shook it off, picked up my credential, and entered the main auditorium. I was at the annual Conservative Political Action Committee (CPAC) conference. Stephen Glass had made it famous outside the Beltway a couple of years ago, with a story of drug- and alcohol-induced sexual escapades that he invented for *The New Republic*. But it has long been an important event for conservative political activists, a forum for presidential hopefuls to deliver crowd-pleasing speeches. It was 26 years ago, speaker after speaker kept reminding me, that Ronald Reagan spoke of a "shining City on a Hill" at this very conference.

This year's crowd of about 1,800 was bimodal. One group was composed of middle-aged and older activists of the social, rather than economic, conservative bent. The rest were minicons: young conservatives bused in by Gary Bauer, the Leadership Institute, Dan Quayle, or the College Republicans. Everyone seemed upbeat—it was like noon at a carnival—which surprised me, since the impeachment process wasn't going this crowd's way.

"What have you got for me?" I asked a woman at the table of Americans for Hope, Growth, and Opportunity, a group that boasts Steve Forbes as its "Honorary Chairman." I started to pick at the goodies on the table, but she quickly handed me a bag, assuring me that someone had already assembled them for me. The heaviest item in my bag was a coffee mug emblazoned with AHGO's logo and "Steve Forbes" at least two font sizes larger. Forbes is no dummy—I searched the mug in vain for a "Made in China" sticker, a slip that Gary Bauer certainly would have taken advantage of.

I turned around and was confronted with a group of youths wearing "Bauer Power" T-shirts. What in God's name, I thought to myself, prompts a young person, so full of mischievous possibility, to give it all up and join the forces of fun-repression? There were probably close to 100 such ill-clad youths swarming the conference. It turns out that God has a lot to do with it.

Geoffrey White, a freshman communications major from Miami University, the source of much of Bauer's youth brigade, told me that he liked Bauer's message. We need, he said, to remoralize America.

I walked over to John Kasich's table. "What do you have for me?" I asked a young fellow sporting a "Kasich Pioneer" button. I held up my Forbes bag: Look at all this good stuff your competition is passing out—a mug, lapel pins, a book on the moral foundations of a free society, a book on Social Security reform, and a bumper sticker. He didn't have a damn thing to offer. It turns out this fellow is enrolled in a George Washington University nondegree program that provides people with a practical view of what politics is like. He was given the assignment to be a Kasich Pioneer just a day before and knew very little about the man. A true pro in the making.

My next stop was the Alan Keyes booth, where I spoke with Keith Proctor, a slightly disheveled, slow-talking man with a bag of Skittles hanging out of his suit pocket. Proctor gave me a Keyes cassette tape, a far second to my Forbes loot, but useful nonetheless. (I reuse propaganda cassettes as interview tapes.) The most important issue for Proctor is morality, neatly bundled up in the abortion issue. "He's a Christian man," Proctor told me, adding that Keyes would give Christians representation in Congress. (I believe he's actually running for president, but Lamar Alexander was about to speak, so I didn't get into it.)

I have long considered Lamar Alexander's presidential aspirations nearly as laughable as those of Dan Quayle. Lamar had published a piece in *The Wall Street Journal* that very day, assailing the presidential front-runners of both major parties for using "weasel words": Gore for his "practical idealism," the young George Bush for his "compassionate conservatism." Unlike them, Alexander bragged, he didn't need any adjectives. "I'm a Republican. I'm an idealist. I am a conservative—and proud of it," Alexander intoned, his ears flying away from his head at roughly 30 degrees, giving him a Dumboesque quality. "None of these words require any

HENRY PAYNE

modification to serve either as a philosophy or as a political creed."

He endorsed a two-tier tax system—a contrast to the Forbes one-rate plan—and said he favored federal funding for education, particularly federal college scholarships and research grants. This man really inspires.

As Lamar spoke, I recalled a point Thomas Sowell made years ago about teachers' general aversion to academic competition. Noting that teachers tended to come from the bottom of their classes academically, Sowell hypothesized that they didn't have many happy memories of competition. Perhaps, I thought, the particular adjectives that have been applied to Lamar have scarred him.

John Kasich was up next. The well-caffeinated, freedom-loving, rock-music-listening House Budget Committee chairman claimed he just wants the government to set him free to do his own thing. He brought up regulations, saying he likes to call them "restrictions." He voiced support for an across-the-board tax cut and repeatedly professed his belief in God. "As the song says," he rambled at one point, "money can't buy you love."

Kasich was certainly the most libertarian speaker I saw. But he is affecting a worrisome populism: "Big is bad" was a major theme. "Whether it's big government, big labor, or big business," Kasich told the crowd, "they all put obstacles in our way." This, in my mind, misses the important point. What's wrong with big government is that there's no exit, no escape. The difference between the IRS bureaucracy, which is truly evil, and General Motors, which just produced really bad cars for a while, is that you don't have to buy the cars. At any rate, it would be nice if Kasich would focus on getting us a "big" tax cut.

As Kasich was fielding questions, Bauer's troops started to file into the room, greeting their man's rise to the podium with a placard-waving standing ovation. "I hope you don't all work for me," Bauer said. (They do, at least the most enthusiastic ones.) With his elongated snout and set-back eye sockets, Bauer resembles a mouse. He rolled into his well-rehearsed speech. He compared *Roe v. Wade* to the *Dred Scott* decision and, like the other candidates, called for a defense buildup. (Bereft of domestic policy, Republicans are pinning presidential hopes on a popular movement for a larger, more expensive military.) Bauer also paid tribute to Henry Hyde, and the crowd leapt to its feet, filling the room with whoops and howls.

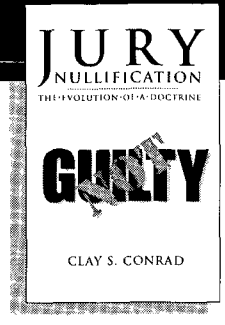
Gary Bauer's troops started to file into the room, greeting their man with a placard-waving standing ovation. "I hope you don't all work for me," Bauer said. They do, at least the enthusiastic ones.

Later on, Bill Bennett went up to lament the "death of outrage." He was introduced by Preston Noell, of Tradition, Family, Property Inc., who mislabeled Bennett's best-seller *"The Death of Courage"* and vented some outrage of his own. Noell was upset that the Capitol Steps, a local singing group known for its mild political satire, would be providing evening entertainment. At first I thought he was kidding. The Capitol Steps are not exactly Howard Stern. But Noell was dead serious: The Steps have poked a bit of fun at the pope and committed other acts of political incorrectness. Noell had complained formally to the CPAC authorities but was told the show would be late at night, the crowd was all adults, and not everyone was that conservative anyway. This response really upset him.

"Am I being judgmental?" the enraged Noell asked, as if the person he was fortunate enough to introduce had given him permission to test his manhood in front of an audience. "You bet I am."

Bennett was soon at the microphone. "The bad guys have been made to look good; the good guys have been made to look bad," he said, since the public is more concerned with hypocrisy than the morality that makes hypocrisy possible. He urged the crowd to be "more judgmental." Watch out, Capitol Steps.

What Everyone Should Know about the Powers of the Jury



Central to the history of trial by jury is the right of jurors to vote "not guilty" if the law is unjust or unjustly applied. When jurors acquit a factually guilty defendant, we say that the jury "nullified" the law. The Founding Fathers believed that juries in criminal trials had a role to play as the conscience of the community, and relied on juries' nullifying to hold the government to the principles of the Constitution. Yet this power of jurors has been derided and ignored by American courts, to the point that today few jurors are aware that an important part of their role is, in the words of the Supreme Court, to "prevent oppression by the government." **311 pp./$22.50 paper**

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Date: Sun, Jan 31, 1999 4:33:17 PM
From: mlynch@reasondc.org
Subj: Apocalypse Not

The head's pounding a bit this morning. I am not sure if it's on account of the five glasses of wine I enjoyed with dinner or the "coconut macaroon flavored survival ration" *Wired*'s Declan McCullagh thrust in my face shortly after I arrived at his Adams Morgan flat last night. Declan and Cato's Solveig Singleton were throwing a "Halfway to the Apocalypse Party," to "celebrate *333* days left 'til Y2K." The invite promised Y2K survival foods—including "bulk rice" and "eel"—various Y2K theme songs, and a chance to win Jerry Falwell's Y2K video.

"You're not Y2K compliant until you have this," blurted someone as he handed Declan a roll of camouflage duct tape. Declan added it to his pile of survivalist goodies, which included a 50-gallon drum of "Hard White Wheat" and a carton of GPC full-flavored smokes (future currency, I was told). Declan was soon showing me other party gifts: boxes of .357 and .22 caliber bullets. "You can see there's a bit of a libertarian theme," he told me, as he fondled a bullet.

I wasn't there just for the bullets and booze. I was on the beat. Washington has been buzzing about Y2K: Declan's "Politech" e-mail list teems with Y2K concerns; Clinton has promised the geezers that their Social Security checks will keep coming; and even the religious nuts have climbed on board, with Falwell hyping the coming computer crash as God's way of humbling America.

"I think the United States is in good shape," Jim Lucier, formerly of Americans for Tax Reform and now with Prudential Securities, told me when I pressed him on the issue. Domestically, he is worried only about operations sheltered by government, such as rural electricity co-ops. "Overseas, all bets are off." I next questioned a bespectacled bearded man who works on the Hill. "I really do believe there will be a year 2000," he allowed.

My reporting wasn't getting anywhere, so I decided to start drinking. On the way to the refrigerator I ran into someone on the staff of Sen. Conrad Burns (R-Mont.). This fellow recalled testifying about Y2K before the Montana legislature but couldn't remember what he said. Another fellow from Burns' office said that China's approach to the problem was to hold its leaders accountable. Chinese airline executives, for example, are required to be in the air when the date turns. If anyone goes down, they go down.

Lucier pointed out that people who are airborne will be plenty safe, at least if the plane is built by Boeing, since private companies will see to it that the problem is fixed. "The weak link is local airports," said Lucier, since they are run by governments. This man is nothing if not consistent.

As the party thinned out, I took up with a cybercolumnist/taxi driver/limousine company owner, whose name isn't printed on his business card. His advice, as he pulled out a wad of bills, was to drive a taxi. He demonstrated why by separating his day's take of $161 into one pocket for the government and the other for him. (The lesson was that the government wasn't getting in his pocket.) His advice for Y2K: Buy 3M stock. Post-it notes, he felt, would be the best means of communication.

The VCR was playing a Y2K scare tape. I sat down to watch. Pat Boone was soon on the screen fretting over dependence on technology. It was time to leave.

The VCR in the corner of Declan's drawing room was playing a Y2K scare tape, *Millennium Bug and the Year 2000.* I sat down to watch. The video jacket warned, "Nothing this big has ever been this predictable with this much precision," and "begin to prepare for a radical alteration of your lifestyle." Pat Boone was soon on the screen fretting over dependence on technology. It was time to leave.

Date: Wed, Feb 3, 1999 3:28:01 PM
From: mlynch@reasondc.org
Subj: Washington Focus

I just returned from a two-hour focus group conducted by Peter D. Hart, who usually polls for *The Wall Street Journal* but was on a more corporate assignment tonight. "I'll do a Capital Letter on it," I thought, as an unsolicited caller asked if I would participate. Even if it was a bust, I figured, I could cash the $150 check.

I arrived at Olchak Market Research at 5:50 p.m., just in time to munch a sandwich, gulp a glass of water, and head into a bugged conference room. On arrival, each of us chose a movie star's name for purposes of identification. I was Danny Glover, while Bruce Willis sat to my right and I stared across the table at Warren Beatty, who is really a Republican Hill staffer.

It was a well-balanced group of Washington rent seekers. As the first exercise, Hart had us disclose our professions and predict the most important thing the 106th Congress was likely to accomplish. Harrison Ford, who works on the Hill, thought Congress would reform Social Security; Whoopi Goldberg, a journalist, expected a tax bill; and Jack Nicholson, who toils for a labor union, was banking on legislation on "pay equity," of all crazy things. All told, the group had two bureaucrats, two labor bosses, three Hill hands, two nonprofit employees, one who identified himself as "an attorney for a nonprofit," two journalists, and a trade association president. We were picked, Hart told us in an early suck-up, because we are opinion leaders. (Even the lowest-rent Lewinsky pundit probably wouldn't gab for two hours with a bunch of strangers for $150. I, however, will.)

At first, it wasn't clear who was paying Hart for what. He gave us a piece of paper with about six policy issues—including Social Security and Medicare, food stamps, telecommunications, and the environment—and two columns. In one column, we were asked to rank on an ascending scale of 1 to 10 whether we thought Congress would take action. In the second column, we were asked to signify if we gave a rat's ass about the issue with a simple *Y* or *N*. (For some reason, I had a bunch of *N*s.)

We blathered about these various issues for about 10 minutes before Hart zeroed in on telecommunications. "Do you think Congress will do anything?" he asked Bruce Willis. Willis thought so, since there

is plenty of lobbying power. For the same reason, I expressed the opposite opinion. With so many buyers, it's hard for congressmen to know who to sell themselves to. Besides, I said, the issue is very complicated, and congressmen are busy.

Hart, who has a studio executive tan, was soon up at an easel where he flipped to a page revealing four industries: Long Distance Telephone Service, Local Telephone Service, Cable TV, and Internet Service Providers. Which, he asked, do you think needs more government attention? Most people chose long distance or Internet providers, citing privacy concerns for the latter. I said cable TV simply because I hate, yes hate, my cable company and every cable company I have ever had. We blathered about competition—how would we know it when we saw it, what it might look like, whether it existed, and a bunch of other silly questions—for the next hour. Hart fired questions like a slightly subdued John McLaughlin. "Whoopi," he'd ask, as he paced about the antiseptic room, "how would you convince Harrison that more regulation won't help give him better TV service?"

With the ticking of each minute, Hart focused us on cable TV. He showed us ads for competitors—direct broadcast satellites and Star Power, a consortium which appears to offer bundled Internet, telephone, and cable TV service. He screened three ads for a company that situated cable and telephone companies in World War II America and Stalinist Russia.

I couldn't tell whether he was working for the cable industry or the upstarts, but he wanted to focus on our reactions to government intervention. Should the government be more or less involved? was his basic question. I, Danny Glover, said this question was framed wrong, since the government is already involved in each of his four areas, even those we agree are competitive. ISPs, for example, have government-regulated access over local phone networks. The real question is what the government should do to allow competition to flourish. Hart cut me off, and went back to his basic question for about the 20th time: Does the industry need more or less government regulation?

Finally, he asked us what we would say to the cable TV industry. Good riddance, I offered, adding that I would pay more money each month just so I didn't have to give any of my dough to a cable company. As Hart went around the table, there were lots of boat and dock metaphors. "The boat's already left," said one guy. "I don't know if they've missed the boat," said Robin Williams, "but they have to jump from the dock." Another guy—George Clooney, I believe, who works for a firefighters union—said they might fall into the crack between the dock and the boat.

As we left, a lady handed us each a small white envelope. Jack Nicholson continued to complain to me about his cable company. Warren Beatty felt there'd be action this year. Out on the street, I ripped open my envelope: a new Franklin and Grant. Nice. Beatty told me he couldn't accept money since he worked on the Hill and reiterated that he thought there'd be action on the direct broadcast satellite issue. I got his card. Another Washington contact.

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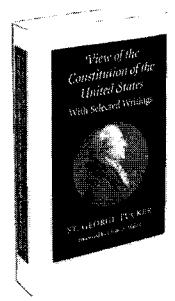
VIEW OF THE CONSTITUTION OF THE UNITED STATES
With Selected Writings

By St. George Tucker
Foreword by Clyde N. Wilson



As professor of law at the College of William and Mary, St. George Tucker in 1803 published ***View of the Constitution***—the first extended, systematic commentary on the United States Constitution after its ratification and later its amendment by the Bill of Rights. ***View*** was originally part of Tucker's "Americanized" or "republicanized" edition of the multivolume *Commentaries on the Laws of England by Sir William Blackstone*. Generations of American law students, lawyers, judges, and statesmen learned their Blackstone—and also their understanding of the Constitution—through Tucker. As Clyde N. Wilson notes, "Tucker is the exponent of Jeffersonian republicanism . . . in contrast to the commercial republicanism of New England that has since the Civil War been taken to be the only true form of American philosophy." In addition to the entirety of ***View***, the Liberty Fund volume includes seven other essays from Tucker's renowned edition of Blackstone. These include "On the Study of Law," "Of the Unwritten, or Common Law of England," and "Of the Several Forms of Government."

St. George Tucker (1752–1827) was an officer in the American Revolutionary Army, a professor of law, justice of the Supreme Court of Virginia, judge of the Federal District Court for Virginia by appointment of President James Madison, progenitor of a long line of jurists and scholars, and stepfather of John Randolph of Roanoke.

Clyde N. Wilson is Professor of History and Editor of *The Papers of John C. Calhoun* at the University of South Carolina.

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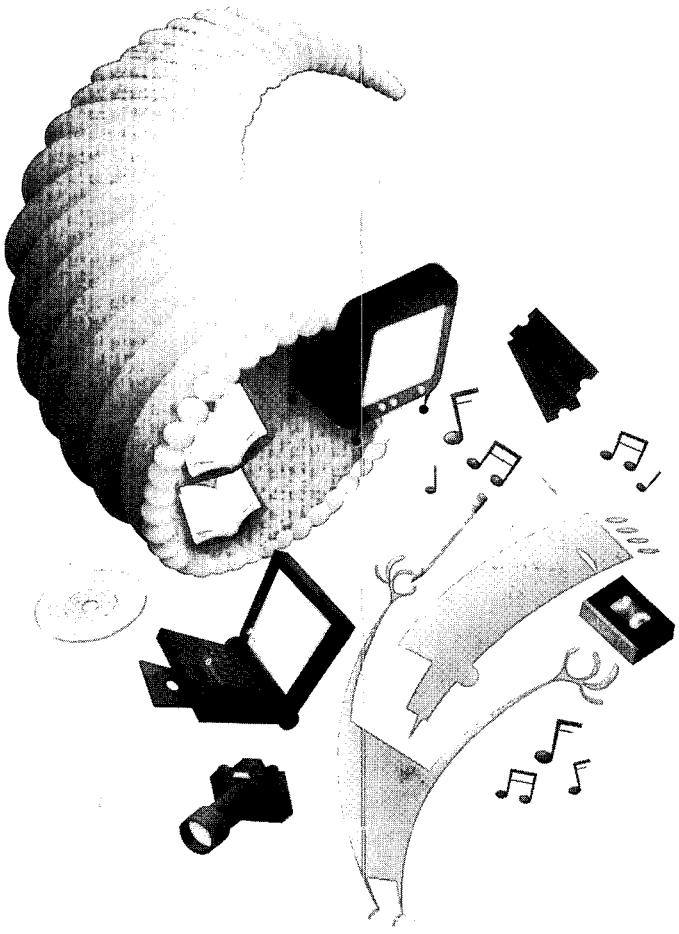
All Culture, All the Time



It's easier than ever to make and buy culture. No wonder some people are so upset.

Whatever happened to the television test pattern? No more than 20 years ago, most TV stations routinely signed off the air for at least a few hours a day. At the end of their broadcast period, stations would slap a test pattern up on the screen until the next morning's programming began. The test pattern—occasionally an absurd drawing of a Native American but more often a simple geometric shape adorned with call letters—was a great symbol of cultural dead space, of a moment when nothing was happening, when nothing was being transmitted, save perhaps for a monotonous electronic hum.

By Nick Gillespie

While some stations still do sign off, they are increasingly rare in a hyperkinetic, always-open America that has shifted fully into 24-7 mode (indeed, one promise of much-hyped digital TV is that it will allow an individual channel to subdivide itself four or more times). If the test pattern symbolized a moment of silence in the cultural process, then it's only fitting that its long run has effectively been canceled.

Similar developments range far beyond the small screen. During the past few decades, we have been experiencing what can aptly be called a "culture boom": a massive and prolonged increase in art, music, literature, video, and other forms of creative expression. Everywhere we look, the cultural marketplace is open and ready for business: The number of places where you can buy books has more than doubled during the past 20 years, while the number of libraries has increased by about 17 percent (to a total of almost 37,000). More than 25,000 video rental stores are scattered across the United States, effectively functioning as second-run theaters and art houses even in the most remote backwaters (a few years back, I was able to rent the 1930 Marlene Dietrich film *The Blue Angel* while visiting friends who lived five miles outside a town of 3,000 people in rural Ohio).

More than 110 symphony orchestras have been founded since 1980, reports *The Wall Street Journal*, which also notes that the national 1997–98 theatrical season "raked in a record $1.3 billion in ticket sales." About 3,500 commercial radio stations and 670 commercial television stations have come on the air since 1970; during the same period, cable viewership has quadrupled, while niche channels such as American Movie Classics and the Independent Film Channel have become more and more common.

The increasingly important World Wide Web has provided space for all sorts of commercial and noncommercial culture, ranging from authorized sites for the Louvre (featuring a virtual tour) to a reader-compiled database of more than 180,000 movies to translations of Dante's sonnets to fan-generated art about the cartoon *Josie and the Pussycats*. Especially in video and music production, where equipment costs were once prohibitive enough to seriously limit access, there is a flourishing, self-conscious "do-it-yourself" movement that has taken great advantage of cheaper technology and distribution methods.

In an important sense, such cultural proliferation is nothing new. It's part of a broad-based, centuries-old trend that also includes generally longer lives, increased wealth, and the greater personal autonomy that accompanies such developments. But there's also a sense that we've reached a tipping point, or at least turned a corner, in the past few years. More and more, people are not merely consuming culture but creating it as well.

In fact, in a world of $100 VCRs, bargain-basement PCs, CD-rewritable drives, and other technologies that allow users to copy and manipulate images, words, and sound in ever-new and seamless ways, even the sharp distinction between producer and consumer seems increasingly blurred. In economic terms, the opportunity costs of both making and enjoying culture have dropped through the floor; it keeps getting cheaper and cheaper both to produce and to consume culture under increasingly diverse circumstances. One predictable—and positive—result: more and more of everything.

Here's another: Gone for good are the days when serious cultural critics, whether on the right or the left (and whether rightly or wrongly), could nod toward Tocqueville and Mrs. Trollope and bemoan a scarcity of "culture" in America. Instead, the contemporary descendants of such folks are more likely to make the sort of claim *Slate*'s Jacob Weisberg did recently in a review of economist Tyler Cowen's *In Praise of Commercial Culture*. After granting that the United States does in fact offer a dizzying array of cultural opportunities, Weisberg complains: "What we lack is a flourishing common, or national, culture. Contemporary classical music goes unperformed, foreign films have no audience, and hardly anyone reads contemporary poetry. Meanwhile, pap abounds."

Though such an argument is not particularly convincing—there are, in fact, healthy, if small, markets for the fare Weisberg prefers—the shift in emphasis is noteworthy. It underscores a recognition that the problem isn't a lack of choice in cultural matters: You want Mozart, Mingus, and Marilyn Manson? No problem—they're all available (and probably at a discount). Rather, the issue is precisely a *profusion* of choice in cultural matters: You want Mozart, Mingus—*and Marilyn Manson?*

The very fact there are "culture wars" is a cause for celebration. They're a flashing neon sign that more and more people are able to express and enjoy themselves on something like their own terms. One man's pap is another man's Proust—and we've entered a phase where people are increasingly willing to argue the point.

The difference in inflection is no small matter. In an increasingly wealthy and educated society where the overwhelming majority of people have concerns about food, clothing, and shelter pretty well covered, culture takes on more and more meaning as the medium through which we articulate our identities, dreams, fears, aspirations, and values. Little wonder, then, that stories about the "culture wars" have been burning up the pages of newspapers, magazines, and intellectual journals for the past few years: There's so much more to fight about these days.

While such battles are typically waged in apocalyptic—and apoplectic—terms, we should be clear about one thing: The very

ILLUSTRATIONS: CHRIS LENSCH

Joe's Garage

By Jesse Walker

Kind Radio—that's Kind, not KIND—occupies about a third of Joe Ptak's garage. It contains a couple of CD players, one of which hasn't been working well lately, a tape deck, a turntable, a lot of graffiti, a few empty beer cans, and a faint smell of tobacco and cannabis. Its signal covers all of San Marcos, a smallish town (population 39,000) on the edge of the Texas Hill Country. It is unlicensed, and the FCC wants to shut it down; until then, Kind continues to broadcast everything from country to metal, plus commentary that ranges from far left to far right and sometimes straddles both.

Tonight, Neva Humble (yes, that's a pseudonym) is hosting *Humble Time*, a showcase for Texas songwriters. From the speaker by the wall comes a series of wonderful acoustic songs, far better than the bland slop that most licensed country stations usually play. This is the only syndicated show on Kind: Eight stations broadcast it, two of them unlicensed, the others perfectly legal. Every week, Neva and her husband Ace record a four-hour open-mike session at a 100-year-old country store in Freiheit, a town of 30 or 40 souls about midway between Austin and San Antonio. (The population can vary—on show night, notes Ace, "we put about 50 more people there.") From the four-hour tape they edit a one-hour program, put it on a compact disc, and send it to participating stations.

Kind Radio

On Kind Radio, Neva has *two* hours to fill, so hosting the show is more active than just sticking the CD in the CD player. The DJ must edit out the ads (Kind refuses to run commercials), then fill up the second hour with favorite tracks from past programs. The task is even trickier tonight, since one of the CD players is acting up. To fill the dead-air gap between tracks, Neva must turn on the microphone and give a play-by-play account of her struggle to cue the next song. The listeners don't seem to mind: She has a great radio voice and, one gathers from the frequent phone calls, several devoted male fans. (I can hear only her bemused side of the conversations, but it isn't hard to figure out what some of the callers are saying. "Aw," she tells one. "You're just saying that because I'm a girl.")

Most of the songwriters play country or blues, though the showcase is open to all genres of music. Some jazz acts have played there, including the Austin pianist who wrote the Stevie Ray Vaughn hit "Cold Shot." Mo Humble, owner of the Freiheit Country Store, wouldn't be fazed if someone showed up wanting to perform some acoustic funk. A few stars and semi-stars have played the showcase—country "outlaw" Ray Wylie Hubbard, for one—but most of the performers don't even have recording contracts. By and large, they come from Austin, San Antonio, or the vast rural area in between: from small towns like Wimberley, Fredericksburg, and Canyon Lake. Occasionally, they travel longer distances. One week a Canadian happened to be in town while the show was in session and decided to perform. They say he was pretty good.

Ace himself plays in a rock/funk/reggae band called Fools In Love. By day, he makes his living running a recording studio, the Sonic Deli, out of the house he shares with Neva. About half the folks who use the Deli are cutting demos, and about half are releasing their music themselves. The studio has thus far resisted the temptation to start its own label, but Ace is seriously thinking of publishing music on the Internet, as MP3 files. MP3 is a means of digitally storing and distributing music; it is popular with consumers and independent musicians, but not with the established record companies, who see it as a haven for bootleggers and competitors in general. Ace's plan is to get MP3 rights from performers at the Country Store, then sell their songs over the Web for about a buck a pop.

Thanks to the Net, *Humble Time* (www.humbletime.com) has a small following outside the Hill Country. Once a fellow from Great Britain, of all places, called Kind to tell them he was enjoying their webcast (www.mediadesign.net/kindmenu.htm) of the show. But for the most part, the show is invisible outside central Texas.

The most interesting cultural activity often takes place below the mass media's radar screen. But the folks who create that culture are rarely afraid to use the media's tools—radio, the Internet, CDs, MP3 files—to fashion their garage-based art.

Associate Editor Jesse Walker (jwalker@reason.com) is writing a book on micro radio.

fact that there are culture wars is cause for celebration. They're a flashing neon sign that more and more people are able to express and enjoy themselves on something like their own terms: One man's "pap," after all, is another man's Proust—and we've entered a phase where people are increasingly willing to argue the point. Proclamations of artistic or social value can no longer be issued ex cathedra but must now be submitted before a skeptical audience.

The same decentralization of the cultural process that lets more and more people participate also allows them to opt out of someone else's cultural value system, whether they prefer *Ally McBeal* or *À la recherche du temps perdu.* In essence, the culture boom grants individuals what economists Albert O. Hirschman and Nobel laureate James Buchanan would recognize as a right of "exit" from a given cultural system: People are freer now to look elsewhere, to pursue their own interests to their own ends. Such a development hardly means that cultural standards have been obliterated, any more than freedom of religion means that theological standards have disappeared. Rather, in both instances, standards have been vastly multiplied and, as a result, are more likely to clash. In this sense, the culture wars, like competition in economics or politics, are a marker of a healthy, diverse, engaged society.

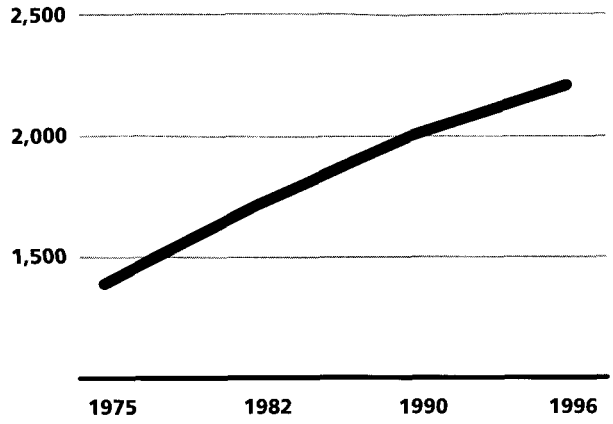
To be sure, the culture boom is bad news for a "common" or "national" culture, if one conceives of such a thing as a set of relatively fixed artifacts and received interpretations that should not change over time; it certainly spells trouble for commissars, whether conservative or progressive, who argue that culture should be didactic and instructive toward a single set of desired ends, and it similarly makes things more competitive for producers and aesthetic movements alike, who must work harder than ever to gain and hold an audience.

But the effective deregulation of cultural markets is very good news for both individuals and the society comprising them. The most vibrant cultures, like the most vibrant economies and political systems, are ones in which people are as free as possible to define and choose what is valuable and meaningful to them. Ironically, such a viewpoint is hardly controversial when applied to most aspects of American life. Indeed, it is even seen as the embodiment of America's mythic national identity, which is paradoxically predicated upon the pursuit and fulfillment of individual desire. If we recognize heated political debates and loud marketplace haggling as quintessentially American, then we should do the same for cultural proliferation—and the contentious culture wars it inspires.

Cultural abundance

By virtually any measure, cultural activity has been enjoying an expansion that stacks up to Wall Street's long-running bull market. Far more books and records are being sold these days (see chart 1 and table 1). In 1985, according the National Endowment for the Arts, 3 percent of adults reported seeing an opera within the previous year, 22 percent reported going to an art museum, and 56 percent reported reading literature. In 1997,

Chart 1: Books Sold
(in millions)



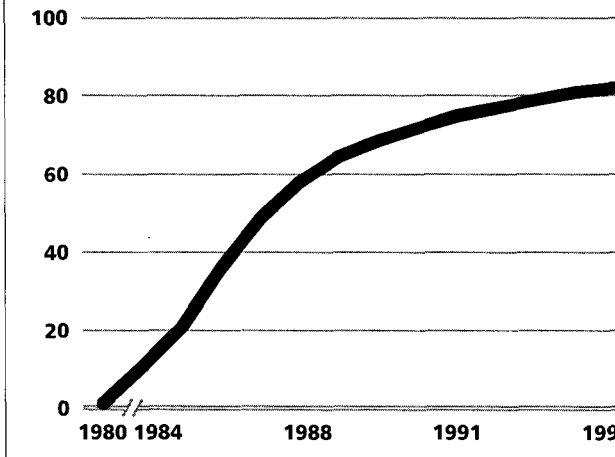
Source: Statistical Abstract of the United States

Table 1: Music Units Sold
(in millions)

	1985	1990	1995	1996
CDs	22.6	286.5	722.9	778.9
CD singles	0	1.1	21.5	43.2
Cassettes	339.1	442.2	272.6	225.3
Cassette singles	0	87.4	70.7	59.9
Music video	0	9.2	12.6	16.9
Vinyl LPs	167.0	11.7	2.2	2.9
Vinyl singles	120.7	27.6	10.2	10.1
TOTAL	649.4	865.7	1,112.7	1,137.2

Source: Statistical Abstract of the United States

Chart 2: VCR Growth
(percent of U.S. TV households with VCRs)



Source: Statistical Abstract of the United States

those figures had risen to 5 percent for operas, 35 percent for art museums, and 63 percent for literature. Nineteen ninety-seven also saw record levels reported on the activity side, with 16 percent of adults drawing, 17 percent taking art photos, 35 percent buying art work, and 12 percent doing creative writing.

Interestingly, the culture boom has, for the most part, seen older art forms supplemented and preserved, rather than paved over, as might happen in a building boom. Hence, even as classical music sales as a percentage of all prerecorded music sales have been sloping downward in the 1990s (2.8 percent in 1997, down from 3.1 percent in 1990), it has nonetheless remained easy to find an ever-wider variety of classical music recordings. It's also become easier to see an orchestra perform: The total number of concerts increased by about 50 percent between 1990 and 1996, to a total of roughly 29,000 (combined private and public funding for orchestras is also way up in recent years).

To get a firmer grip on the magnitude of change that has been occurring, consider in greater detail two representative areas: TV-related culture and publishing. By 1970, television had saturated U.S. households: 95 percent had at least one set, compared to 98 percent in 1997. The past 30 years, however, have seen a number of developments that have greatly increased the amount and variety of TV-related culture available. The average home now has 2.3 sets, compared to 1.4 sets in 1970. Beyond growth in the number of individual stations, there are now four full-fledged networks and two "mini-networks" (WB and UPN).

Cable, the growth of which was long hampered by the Federal Communications Commission's restrictive, broadcast network–influenced definition of the "public interest," is now in 65.3 percent of all households with TVs (compared to 6.7 percent in 1970). The average subscriber receives 30 to 60 channels, typically including several devoted not merely to shopping but to new and old feature films, reruns of old shows, documentaries, and other sorts of specialized programming (a predictable response to increased competition in any area is, after all, product differentiation and specialization).

Television remains a favorite punching bag of moral crusaders and cultural critics, who tend to view an increase in channels or programs simply as proof of the multiplicative identity of zero: Any number times zero is still zero. But most informed analysts who actually watch TV would almost certainly agree with David Bianculli's assessment in *Teleliteracy* (1991) that "TV is better now than it was in the 'Golden Age' of TV, and the best of television compares favorably with the best Hollywood films, and TV deserves more respect than it's getting." Viewers have responded to more varied fare by increasing the amount of time they watch television. During the past decade or so, the average viewer increased his TV consumption by a half an hour, up to a total of 4.5 hours a day.

The variety available on TV is multiplied exponentially when one throws VCRs into the equation. Following one of the quickest possible adoptions of a new technology, about 80 percent of all households with TVs have at least one VCR (see chart 2). In 1990, the average viewer rented the equivalent of about 19 movies a year, a figure that is projected by *Communications Industry Report* to climb to 30 by 2001. Omnipresent video rental stores give virtually everyone access to a film library that a few decades ago even a millionaire wouldn't have been able to afford.

One gets a sense of this by considering the offerings of the typical Blockbuster store. Not only is Blockbuster the country's biggest chain (with about 4,500 stores nationwide), it's arguably one of the blandest and most restrictive in terms of aesthetic judgment. Blockbuster leans heavily toward the highly commercial fare alluded to in its name. And yet it's still got a huge and generally impressive selection of films—the typical franchise rents between 7,000 and 10,000 titles—even as its family-oriented policy creates a niche for stores that carry edgier fare, including pornography. According to *The New York Times*, most Blockbuster franchises have at least two competitors within a couple of miles, suggesting that cultural markets are often not zero-sum games, in which growth for one vendor is loss for another—or, more important, for the consumer.

But VCRs do more than simply allow viewers to watch more TV or film. They profoundly alter the terms of production and consumption. On the production side, movie studios now make roughly as much money from video sales as they do from box office receipts. By providing an after-market, VCRs allow producers—whether large or small, major-studio or independent—to take more risks by giving them a second chance to recoup their investment (that's one reason why there were 139 U.S.-produced independent films released in 1997, 100 more than a decade ago). Additionally, there's a robust market for old TV shows, documentaries, and the like, as well as for direct-to-video materials, ranging from porn to children's series starring the Olsen twins (themselves perhaps a form of porn).

On the consumption side, VCRs allow viewers to watch programs at their leisure, or to effectively watch several shows at once. That inverts what George Gilder has called the "totalitarian" framework of traditional broadcasting, in which the producer of a central signal set the times and terms of reception. Taping further allows individuals to more completely edit what

The culture boom has mostly supplemented and preserved older art forms. Hence, even as classical music sales as a percentage of all sales has declined, it remains easy to find an ever-wider variety of such recordings. It's also become easier to see an orchestra perform.

Mail-Order Movie Madness!

By Charles Oliver

Did the last movie you rented at Blockbuster seem pretty much like the one you rented before that? Do you find it hard to tell Ben Affleck, Chris O'Donnell, and Ethan Hawke apart? And do you really care to?

Maybe you'd like to see something a little different. How about the latest hit from Iran? Or perhaps a bloody horror film from Italy is more to your taste? Don't like foreign films? Then maybe a sleazy, tawdry sex film is more up your alley? Or an old B Western?

You can find all of these films and more by picking up an issue of *Psychotronic Video* or *Cult Movies*, magazines devoted to cinematic fare that usually gets overlooked come Oscar season. You'll see dozens of ads for mail-order outfits such as Sinister Cinema, Something Weird Video, European Trash Cinema, and Midnight Video. These companies sell thousands of offbeat titles from just about every genre imaginable.

By the standards of this young industry, 15-year-old Sinister Cinema has a long history. The Medford, Oregon–based firm has about 1,600 titles in its library, with an emphasis on old serials, Westerns, and horror movies. "Everything from Buck Jones to Bela Lugosi," says founder Greg Luce proudly, explaining that Sinister grew out of "his fanatical love of old movies."

Before starting Sinister, Luce had been collecting such films as an expensive hobby. Then another collector told him that many of the movies in his collection were in the public domain. That meant that the copyrights had expired and anyone could copy and sell them. "I put some out on videotape and sold them to offset my expenses," Luce recalls. "Things just grew from there." Today, Sinister's catalog is still dominated by public-domain material, though Luce has licensed or bought the rights to some films.

The ability to get film rights cheaply or for free is vital to the mail-order houses, which generate relatively low revenues. "Up until about 20 years ago, small companies that did low-budget films didn't always register their movies with the copyright office," says Lisa Petrucci, the artistic director of Something Weird, which carries about 2,000 titles. "And even if they did, many of those outfits just aren't around anymore, so the copyright has lapsed." Founded in 1990, Something Weird focuses on exploitation flicks with titles such as *I Eat Your Skin*. Like Sinister Cinema, most of Something Weird's catalog is in the public domain, but the company does license some films, including a few new movies from underground producers.

Sinister and Something Weird are unusual among the outfits that sell public-domain videos because they transfer films to video themselves to maintain reproduction quality. Most sellers simply copy tapes bought from the companies that have done the legwork of tracking down obscure films. An irony not lost on industry players is that the same cheap, popular VCR technology that helped create their market in the first place also makes it easy for their tapes to be copied and resold by others. It's a sore point, but absolutely legal in the world of public-domain media.

"Copying is rampant in the business," says Craig Ledbetter, who runs European Trash Cinema, which also does its own transfers. Originally started as a zine, ETC sells mostly foreign drive-in movie fare (e.g., *Lonely Violent Beach*, an Italian film about a couple terrorized by a biker gang), but also carries art films by directors such as Jean-Luc Godard. The firms that do their own transfers have responded to knock-off competitors in several ways. Some put their company logo in the bottom corner of the screen on their tapes. Others simply offer better service and cheaper prices.

Not surprisingly in an industry born out of technological innovation, such companies are also hoping that newer technologies will help grow their markets and increase their brand reputations, even as they potentially increase competition. "I've seen dozens of new Web zines devoted to cult films spring up over the last few years," says Sinister Cinema's Luce. "It's cheaper and quicker to publish on the World Wide Web than to actually print a magazine." Fans are also gathering in Usenet groups to discuss films and to trade advice on dealing with mail-order companies: Who has the best copy of a particular film? Who has the best prices? Who is reliable and who is just a rip-off artist? Luce is confident that as fans get more information, mail-order houses with quality tapes and good prices will flourish.

Luce, who can't hide his excitement when he tells of discovering a long-lost Bela Lugosi serial, is sure of something else, too: "That there are many more films out there to be discovered."

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they watch—skipping commercials, fast-forwarding through material they find uninteresting—as well as to "repurpose" material to suit their own desires.

Read all about it

The culture boom is similarly reshaping book publishing. While an enormous amount of ink has been spilled over the demise of print culture, the death of so-called mid-list authors, and the threat to diversity posed by mega-mergers among publishers, actual book sales and related figures suggest a very different picture. Between 1975 and 1996, the number of books sold increased by 817 million units annually. Fifty years ago, Tyler Cowen points out in *In Praise of Commercial Culture*, there were only 85,000 titles in print in the United States. Today, that figure stands at about 1.3 million.

During the same time frame, the number of American publishers increased from only 357 to around 49,000. "Most of these presses are independent small presses or university presses, rather than corporate giants" and are often dedicated specifically to publishing arcane, non–market-driven products, writes Cowen, who chalks up the explosive growth to a "modern commercial world [that] decentralizes editorial decisions and financial support." He also notes that "best-sellers account for no more than three percent of sales" in most big stores and provocatively argues that "the relevant question is not how many more copies Grisham sells than Faulkner, but whether notable works of high quality find their appropriate publishing outlets and readers."

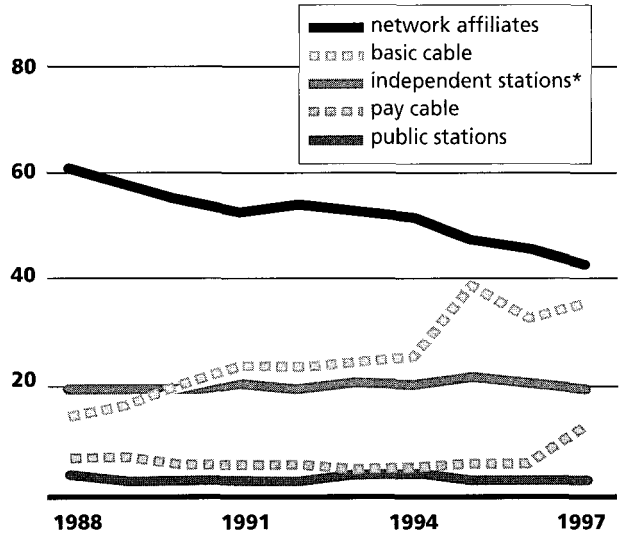
Industry figures suggest they do. During the 1990s, even as publishers ostensibly became obsessed with bottom lines, they responded by publishing and importing more titles. In 1996, for instance, publishers brought out 2,800 more new works of fiction than they did in 1990, 770 more art titles, and 690 more volumes of poetry and drama (see chart 4).

The increase in the number of books available has been matched by an increase in places to get books. Between 1985 and 1993, for instance, the number of "ultimate companies"—outlets selling books in some form or another—rose from 9,200 to almost 20,000. As important, the emergence of superstores such as Borders and Barnes & Noble has redefined bookselling by putting a premium on vastness of selection. Both chains claim to stock around 150,000 book titles (and 50,000 music titles) at most stores.

Such staggering numbers have, of course, been eclipsed by Web sellers such as Amazon.com and Barnes & Noble's online outfit (barnesandnoble.com). Boasting sites that include several million titles, Amazon and Barnes & Noble have been joined in cyberspace by used-book sites such as Bibliofind.com and Abebooks.com that combine lists from hundreds of used-book

Chart 3: TV Viewing Shares

(as a percent of all TV households)

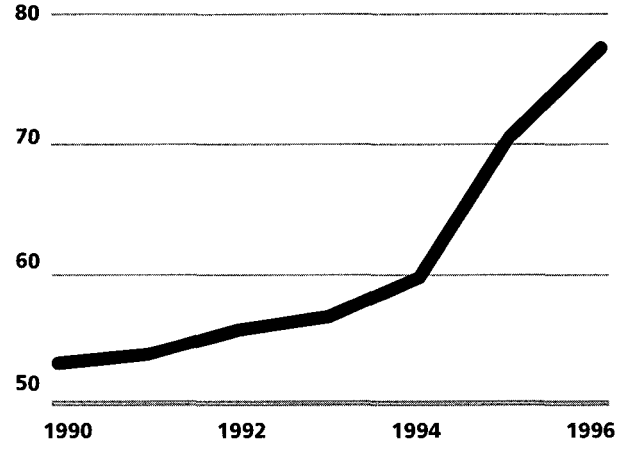


*including Fox affiliates

Source: *Cable TV Facts*

Chart 4: Books

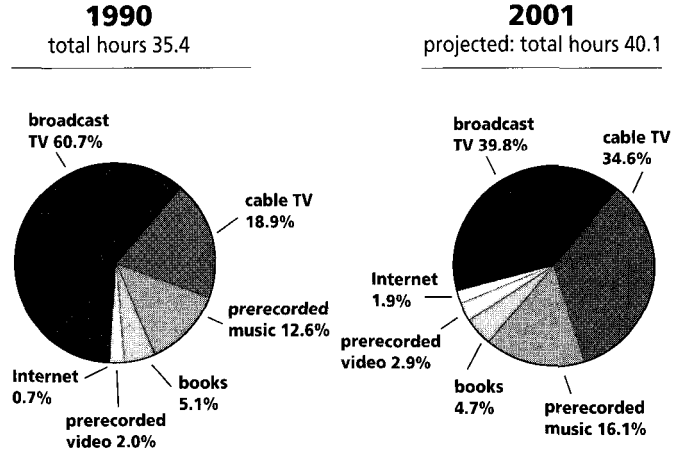
(New titles, editions, and imports in thousands)



Source: Statistical Abstract of the United States

Chart 5: Selected Media Usage

(per week per person)



Source: *Communications Industry Report*

Word Wars

By Charles Paul Freund

Back in 1985, the communications theorist Neil Postman announced that intellectual life was coming to an end. George Orwell's dystopian vision was wrong, Postman argued in his book, *Amusing Ourselves to Death*, but Aldous Huxley's was 20/20: "What Orwell feared were those who would ban books. What Huxley feared was that there would be no reason to ban a book, for there would be no one who wanted to read one." Why so? Because, as Postman interpreted Huxley, people will come to "adore the technologies that undo their capacities to think."

Well, we're nearly 15 years into Postman's brave new world, and there are more techno-distractions around than ever. Yet according to *The New York Times*, people are reading more than they did when Postman wrote.

Why was Postman's own vision so myopic? Because he committed the original sin of the Western intelligentsia: He condemned technology as a threat to culture.

In fact, technology is a conduit for culture, because it is a tool for expression and self-definition. Older forms of expression are not displaced by new ones; they are redefined and usually amplified by them. Nothing so clearly illustrates that essential fact as do the recent, computer-driven advances in the dissemination of the written word: "publishing," a term whose meaning is taking on new dimensions of simultaneity and community.

These developments appear to have impressed Postman and his many fellow pessimists. Their once-lively "end of literacy" debate is now a dead letter, as it were. That debate climaxed five years ago, when critic Sven Birkerts bid a sad farewell to the book in his popular *Gutenberg Elegies*. Yet just as he was burying print (and with it humanism and individualism), book superstores were sweeping the country, and Internet access to every book on Earth was beginning. The new target of professional dyspeptics has become the consolidation of the book industry, a concern that actually presupposes the vitality of literacy and the importance of publishing.

Large publishers have indeed been consolidating, but that is because technology and changes in retailing have been a boon to small houses at the expense of the old dinosaurs. As Nick Gillespie points out (see chart 4), the selection of books available to readers is vastly greater than it has ever been, and it continues to grow.

The course of publishing may have taken Postman, Birkerts, and other pessimists by surprise, but their own views would have shocked self-appointed cultural stewards of the past. From the rise of the popular book in the late 18th century until the advent of TV, the concern of the intelligentsia was not that too few people were reading too few books. It was that too many people had learned how to read, books had become too affordable, and a mass reading public with bad taste was destroying the quality of cultural life.

English professor Patrick Brantlinger has just published *The Reading Lesson*, a valuable study of 19th-century elitist attitudes toward the "threat" posed by mass literacy. As Brantlinger reminds us, the reading of popular Victorian novels was viewed as "vampiric" and "addictive." Too much reading was an impediment to living; books and the fantasies they inspired ill-prepared their readers for real life. Some utopians posited happy, "unbooked" futures where people wouldn't waste their time reading at all.

The most extreme such statement in this century was made by the German Marxist critic Walter Benjamin, who complained in 1936 that mechanical reproduction robbed a work of its singular, quasi-religious "aura" and removed art from tradition. In fact, mechanical reproduction—including publishing's many incarnations—has created whole new "traditions" for art to occupy.

Publishing *is* technology. It was technology when a scribe pressed cuneiform wedges into prepared clay, and it was perceived (by Plato) as a threat even in antiquity. Indeed, it is a threat, though not to society, creativity, or the individual. It's a threat to the closed class of cultural stewards, who correctly perceive that every publishing advance undermines their power.

Technology is not a threat to culture; it is a conduit for culture, because it is a tool for expression and self-definition.

"In Usenet," cyberculture writer Howard Rheingold has written, "every member of the audience is also potentially a publisher." Publishing now implies a many-to-many relationship: many reader/publishers addressing many other reader/publishers. For philosopher Manuel De Landa, such technology is serving humanism, because it is obviously a catalyst for community.

Yet last December, a linguistics professor named John L. Locke issued an apocalyptic warning. In his book, *Awash in All These Words*, Locke claimed that e-mail is making us inarticulate, and worse. "Our social voices are slipping away," he lamented, "leaving people in social isolation." Bad news indeed: The world is ending. Again.

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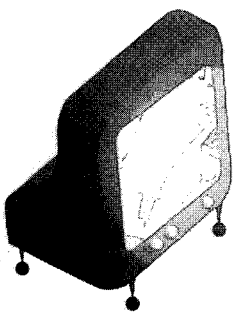
stores nationwide. The Web retailers are also leading the way in increasing access to foreign titles that have traditionally been very difficult to find in the States: Amazon already has sites specifically for the United Kingdom and Germany; Barnes & Noble is working with European juggernaut Bertelsmann (which is merging with Random House) for a multi-language site.

Informal relations

While statistics about television, video, and publishing suggest the dimensions of the culture boom when it comes to relatively conventional forms of culture, the real hotbed of action may well be in what can be called "informal culture." Reliable numbers on informal culture are hard to come by because much of it is either noncommercial or exists on a scale where there isn't a strong need for such information.



The culture boom is in part a function of general increases in wealth and related benefits, especially education and increased leisure time. It is also impossible to scant the contribution of technology, which has driven down the cost of making and consuming culture.

Informal culture includes the thousands of zines that are published in any given year; self-produced and distributed music, movies, and books; "taper" culture, which trades in illegal or gray-market copies of copyrighted materials as well as in versions that are doctored for comedic or dramatic effect; microbroadcasting; fan communities; and Internet-based culture ranging from informal discussion lists to Web sites featuring streaming audio and video outputs. Certainly, it is in informal culture that the empowering aspects of the culture boom are most clearly on display: Much of it is steeped in conscious reaction to or rejection of "mass culture."

How does informal culture foster proliferation? Consider the Internet, which, because of its global reach and increasingly sophisticated and user-friendly multimedia capabilities, is particularly emblematic of cultural proliferation. Undergirding the Internet is the logic of the culture boom. Perhaps most important, it acts as what *Wired*'s Kevin Kelly has called a "supplemental" space. It generally adds to cultural options, rather than simply replacing existing ones—just as television in the end supplemented radio, rather than killing it. Relatively recent (read: already outdated) estimates say the typical Web page has about 500 words on it and put the total number of Web pages at somewhere between 200 million and 1 billion. Using the low estimate, that means the Web has put an extra 10 billion words in circulation, many of which are directed at commenting on and critiquing more-traditional cultural activities.

At the same time, the Web creates opportunities to circumvent traditional cultural gatekeepers by providing additional sites of production and consumption that are difficult, if not impossible, to police and regulate, whether one is talking about content restrictions, copyright infringement, or "responsible" interpretation of a novel. *Cyber Rights* author Mike Godwin has said that the Internet is "best understood...as a global collection of copying machines that allows people to duplicate and broadcast all sorts of information." As cheap, movable printing presses did, such a technology empowers individuals precisely by undercutting centralized authorities of all kinds.

While such tendencies are most clearly visible when looking at the Internet, the same forces are at work in other areas of cultural proliferation. If, for instance, you don't like what's on TV, you can change channels (there are, of course, many more of those than before). If you find nothing of interest, you can rent a video. If you're still dissatisfied, you can splice together found footage, perhaps dubbing your own sound. If that doesn't work for you, then you can grab a camera and make your own program. While relatively few people follow such a progression all the way through, the number of options and escapes—and the sense they are worth pursuing—has certainly grown during the past few decades.

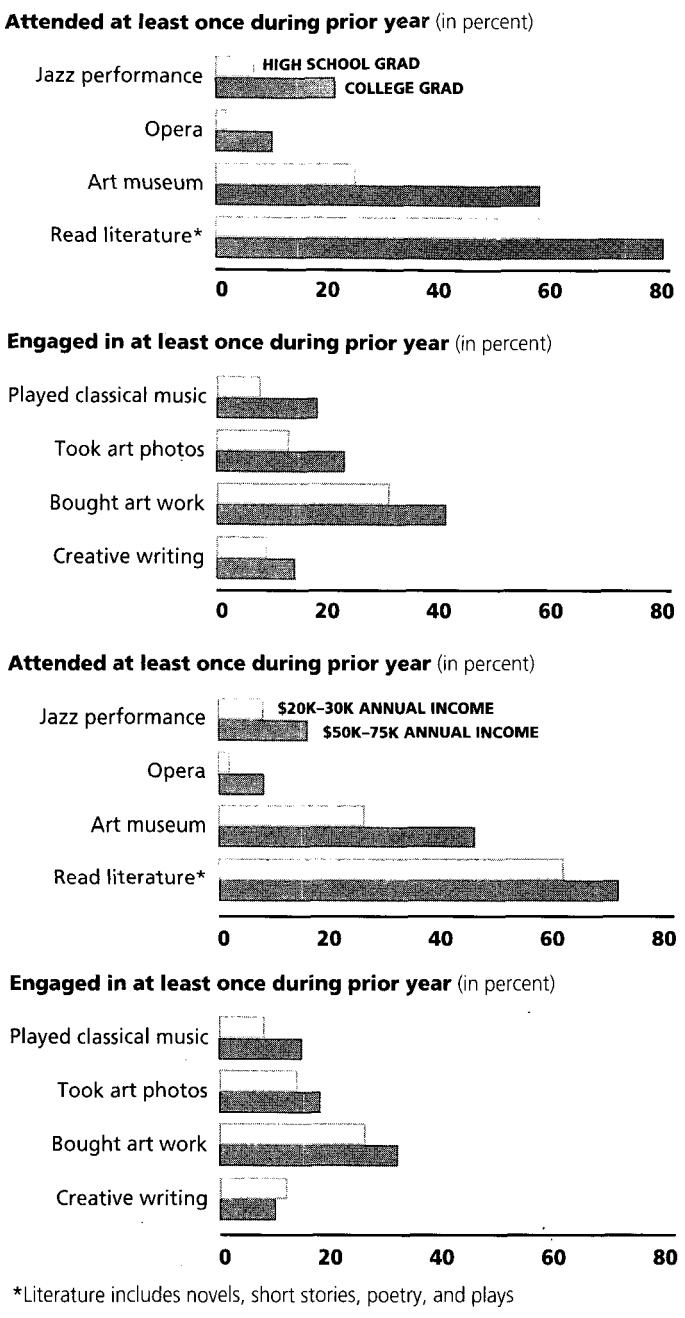
In fact, because the culture boom gluts people with choices and opportunities both to make and to consume, it pushes them toward active behavior. Simply to filter out noise from their cultural systems, they must become active agents. As the range of materials to choose from increases, even passive receivers must actively construct the cultural world around them.

Fueling the explosion

In a pair of articles last year, REASON Senior Editor Charles Paul Freund recalled a time in European history when culture was largely the preserve of aristocrats and the leisure class. (See "Who Killed Culture?," March 1998, and "Buying Into Culture," June 1998, both available at www.reason.com.) Understanding that background helps to explain why the culture boom is happening now—and why it will likely continue for a long time to come. Relatively speaking, we're all aristocrats now.

The culture boom is in large part a function of general increases in wealth and related benefits, especially education and increased leisure time. While wealth, education, and leisure do not necessarily create a flourishing culture, they are almost certainly preconditions for a cultural proliferation. If nothing else, National Endowment for the Arts data show that increased

Chart 6: Arts Activities, Income, and Education
(1997)



*Literature includes novels, short stories, poetry, and plays

Source: National Endowment for the Arts

wealth and education correlate strongly with increased interest in traditionally defined cultural activity (see chart 6).

Americans have in fact been getting substantially richer. Between 1953 and 1993, say W. Michael Cox and Richard Alm in *Myths of Rich and Poor: Why We're Better Off Than We Think* (1999), inflation-adjusted per capita personal income—a comprehensive measure that includes wages and other compensation such as health insurance and retirement plans—rose by about 1.85 percent annually. The boost in income has been very broad-based and cuts across all economic strata.

For instance, an ongoing University of Michigan longitudinal study of several thousand representative individuals found that between 1975 and 1991, people starting in the lowest income bracket on average gained about $28,000 in real income. Such widespread class mobility helps to explain shifting and divergent tastes. Cox and Alm have also documented the ways in which the increase in income has been greatly magnified by a decrease in the real cost of many consumer goods. Calculating goods in terms of the hours an average industrial laborer would need to work to buy a given product, Cox and Alm find, for instance, that the work time required to purchase a movie ticket is only two-thirds of what it was in 1970; that VCRs today cost only 9 percent of what they did 20 years ago; and that camcorders cost only 28 percent of what they did 10 years ago.

Generally rising wealth has been matched by large-scale increases in education and leisure time. In 1970, for instance, only 52 percent of the population over 25 years of age had a high school diploma and only 11 percent had earned a bachelor's degree or more. By 1995, those totals looked very different: 82 percent had graduated high school and 23 percent had graduated college. Like wealth, more education correlates with more interest in both producing and consuming culture. According to the National Endowment for the Arts, for instance, a college graduate is twice as likely as a high school graduate to read literature and three times as likely to attend a jazz concert or visit an art museum. Similarly, college graduates are four times as likely as high school graduates to play classical music, three times as likely to do creative writing, and twice as likely to take art photos.

Twenty-five years ago, Americans spent roughly 64 percent of what's called "waking hours" at "leisure"—that is, not working for pay or doing chores at home. By 1990, that figure had climbed to 70 percent. Although the portrait of "overworked Americans" painted by researchers such as Juliet Schor has been widely embraced by the media, it relies heavily on impressionistic methods such as polls and recollections. In *Time for Life: The Surprising Ways Americans Use Their Time* (1997), John P. Robinson of the University of Maryland and Geoffrey Godbey of Penn State convincingly counter such claims through the use of detailed time diaries. They've found that Americans average about 40 hours of free time per week, a total that represents a gain of about an hour of leisure per day since 1965.

While wealth and related increases in education and leisure are doubtless central to the culture boom, we should not scant the contribution of technology, which economic historian Joel Mokyr dubbed the "lever of riches" in a 1990 book of that title. If Mokyr is correct that "technological creativity" has been one of the "key ingredient[s] of economic growth," it has similarly been a major factor in cultural proliferation. There are obvious examples of this, such as printing processes that have not only enabled books and literature to flourish but have also allowed sheet music and reproductions of artwork to find huge audiences. There are not-so-obvious examples as well, such as how relatively inexpensive musical instruments allowed rock music to develop among lower-class youths and how low-cost stereo equipment essentially made rap music possible: Both are

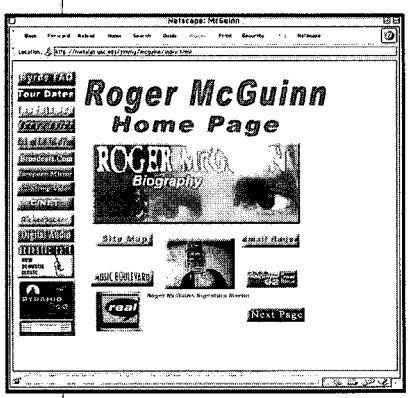
John Henry, RIP

By Nick Gillespie

When John Henry was a little baby,
Just a sittin' on his mammy's knee,
Said "the Big Bend Tunnel on that C&O Road
Gonna be the death of me, Lord God
Going to be the death of me."

I'm chuckling as I listen to the melancholy 19th-century folk tune "John Henry," which eulogizes the legendary "steel drivin' man" who defeats an automated steam drill in a contest but dies from the effort. The humor derives from the context in which I'm hearing such a tribute to old ways of doing things: I'm on the World Wide Web, at a site called The Folk Den (http://metalab.unc.edu/jimmy/folkden/index.html). It's a moment that limns the Web's vast potential not only for creating new forms of cultural expression and the communities they inspire but for preserving older ones as well.

All sorts of pleasant ironies fill the air alongside the music. The Folk Den is explicitly devoted to using cutting-edge technology to preserve "the tradition of the folk process, that is, the telling of stories and singing of songs, passed on from one generation to another by word of mouth." This particular version of "John Henry" is itself 40 years old and was recorded by Roger McGuinn.



He's best known as the leader of the popular and influential '60s group The Byrds, a band that helped bring folk—and, later, country—to wider, younger audiences by wedding traditional forms to rock guitars. McGuinn has maintained the site since late 1995. Each month, he posts a new song, available for free as a RealAudio or .wav file (he also includes a short written intro, lyrics, and chord progressions).

From The Folk Den, you can link to the folk music page of the Open Directory Project (http://dmoz.org/Arts/Music/Styles/Folk/), a volunteer-run "self-regulating republic of the Web" that collects and filters links to useful resources on all sorts of topics ("Like any community," reads an information page, "you get what you give"). From there, you can go to sites such as the Digital Tradition Folk Song Database, a searchable collection of international tunes and La Page Trad, a France-based multilanguage site that provides information on festivals, bands, instruments, and organizations. Or you can go to a site for the Smithsonian Folkways Recordings' *Anthology of American Folk Music*. Edited by musicologist Harry Smith and originally released in 1952 as three double-L.P. volumes, those early recordings did more than preserve the past: They helped create the late '50s and early '60s folk revival that inspired musicians like McGuinn in the first place.

All over the Web, similar developments are occurring for all sorts of cultural activity, ranging from classical music to literature to art. The Web is delivering on the promise of what George Gilder once quaintly called "telecomputers." Writing in *Life After Television* (1990), before there was a World Wide Web, Gilder waxed hyperbolic about a future in which such machines would forever change "the balance of power between the distributors and creators of culture," letting individuals more fully set their own terms of cultural production, consumption, and exchange. Hierarchies, argued Gilder, would give way to "'heterarchies'—systems in which each individual rules his own domain."

For Gilder, telecomputers would not merely let people do new things ("You could spend a day interacting with Henry Kissinger, Kim Basinger, or Billy Graham," he wrote, perhaps unconsciously underscoring the "to each his own" potential of the future as he envisioned it). More important, by breaking down information "bottlenecks," telecomputers would provide a means of reinvigorating those institutions—"family, religion, education, and the arts"—that "preserve and transmit civilization to new generations."

Wrong in particular details, Gilder nonetheless hit the nail on the head as surely as John Henry hammered his steel drill. The Web is renewing an appreciation for the past even as it delivers us into the cultural future. In doing so, it turns "John Henry" into a happy song.

Well they carried him down to the graveyard
And they buried him in the sand
And every locomotive came a roarin' on by
They cried out, "There lies a steel drivin' man, Lord God
There lies a steel drivin' man."

Rest easy in your grave, John Henry. You may be long gone, but your future never looked better.

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forms that gave voice to people shut out from dominant modes of expression.

Indeed, in a cultural context, the most important effect of cheap technology is that it fundamentally reconfigures what Marxists would term an individual's relationship to the means of production. In a world of ubiquitous video and audio cassette recorders—and a world in which personal computer ownership grew by more than 50 percent during the past four years alone—we are well on our way to a society in which everyone, regardless of class, owns multiple means of cultural production.

Exit strategies

Though today's culture boom is brimming over with unparalleled opportunities, it's hardly unprecedented. The situation is in some ways reminiscent of 17th-century Britain, where the Church of England lost its theological monopoly partly because of rising literacy rates and new printing techniques that allowed more voices to enter into religious debate. England was flooded both with competing translations of the Bible and with tracts written by dissenters arguing about everything from atheism to—even more scandalous—a return to Catholicism.

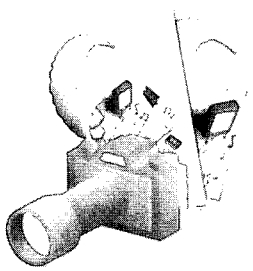
Religious practice, like cultural activity, is a mix of private belief and public display; both are ways in which individuals explore what they hold true and announce who they are; both often involve intensely held values and evangelical activity that causes conflict with nonbelievers. In England, the breakdown of a central religious authority led to a flourishing of different, competing sects that duked it out in the marketplace of ideas for adherents and status. That struggle had a happy ending: By the end of the 17th century, freedom of "conscience"—that is, of religion—had been recognized as a fundamental right of the individual. That didn't mean, of course, that people believed all faiths to be equally valid or equally worthwhile, or that theological arguments no longer mattered. If anything, official recognition of a right of conscience enriched religious life by allowing people to argue their points more openly and to give fuller public voice to their individual and affiliative identities.

In our own time, the culture boom is similarly deregulating cultural markets by making it easier for people to walk away from offerings they find uninteresting, irrelevant, or objectionable. As James Buchanan has argued, when such an option is introduced in the political sphere, power devolves toward "competing units" of governance, right down to the individual. "Potential mobility among competing political units," says Buchanan, "may offer protection against...exploitation in any of several dimensions, including attempts to impose community values. The potential for exit allows at least some matching of personal loyalties and politically promoted common values."

Transposed into the cultural sphere, this suggests at least a couple of things. First, the potential for exit—to go elsewhere—heavily conditions the terms of exchange between producers and consumers; in effect, it forces the producer to provide better terms for the consumer and hence disperses power throughout a system. One reflection of this is the relatively recent and increasingly widespread practice of discounting books. Another is the way that producers must adapt to survive changing tastes. Consider a culture industry giant such as Disney, which rebounded from near-bankruptcy in the late 1970s and early '80s. Disney had to start once again making films that audiences actually wanted to see (out with *The Black Hole* and *Tron*; in with *The Little Mermaid* and *The Lion King*). But it has also flourished by expanding the range of material it is willing to finance. Hence, through its subsidiary Miramax, it has seen fit to help produce and release such quintessentially non-Disney films as *Priest*, *Kids*, and *Pulp Fiction*.

Second, and more important, an increase in the possible sites for cultural production and consumption does allow people to go elsewhere. The effective breakdown of the state church in England did not *cause* the differences among sects, some of which were so deeply held that dissenters shipped out to the New World. Rather, it created a society in which differences could be given voice and debated. Today, it has become increasingly easy for individuals to "make" their own culture, either through actual production or increasingly differentiated patterns of consumption.

The upshot of such a situation is that it is and will continue to be increasingly difficult to enforce any single standard of cultural value or practice, whether the enforcer is a government seeking to regulate material its deems indecent, a corporation trying to protect its franchise, or a group of artists or critics interested in cornering the market with its own aesthetic ideology. In this sense, the increased contests for power, prominence, and prestige that are often lamented in discussions of the "culture wars" are simply signs that all is as it should be in a free society. Indeed, more-serious problems will only be beginning if, as some participants in a recent *Chronicle of Higher Education* symposium suggested, those wars are in fact over.



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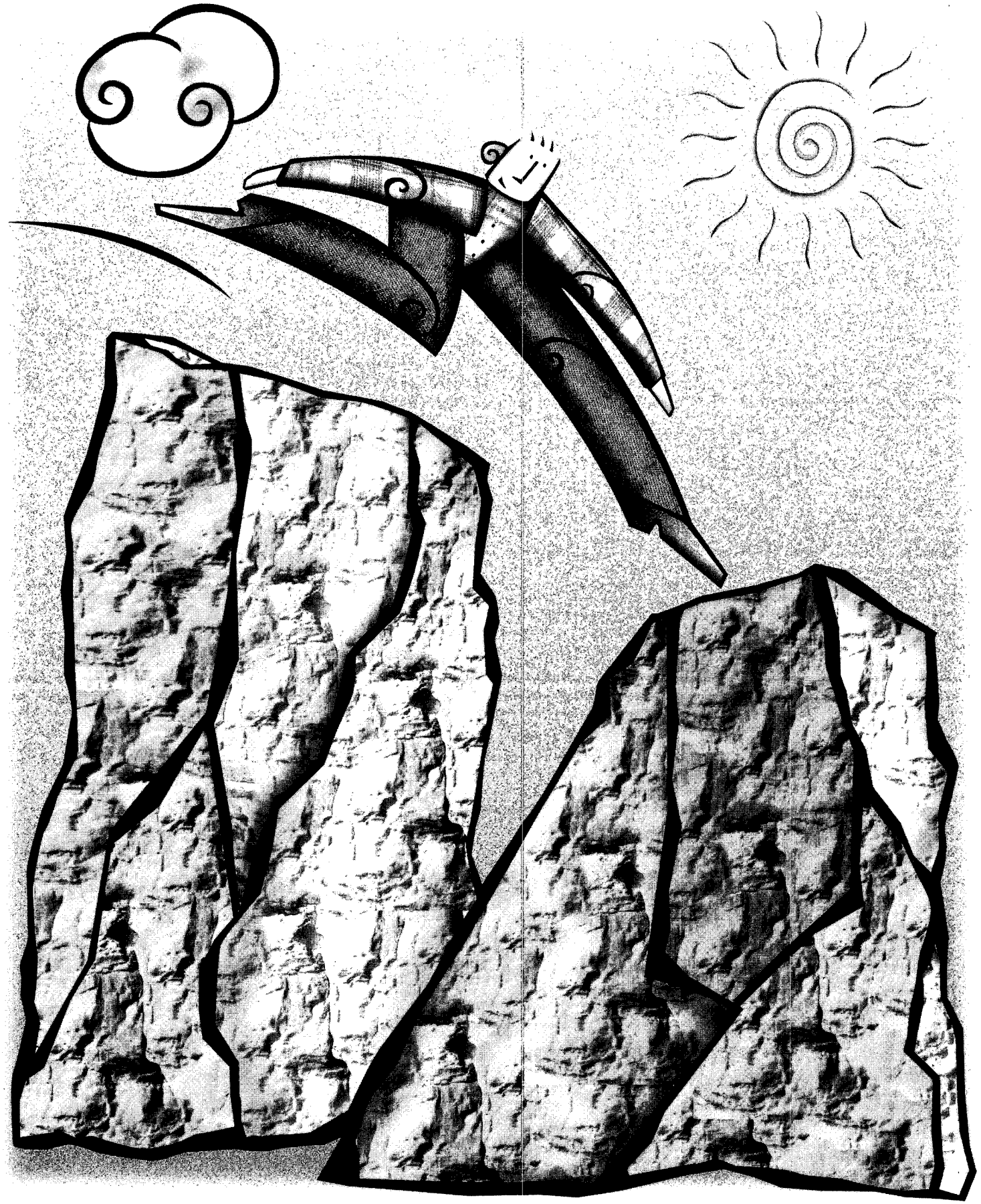


ELLEN PROCHNIK

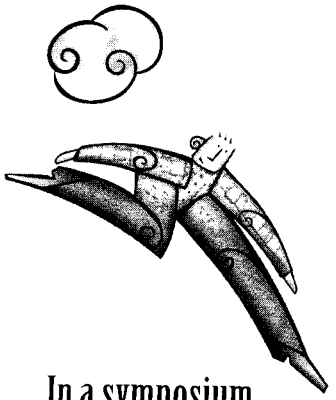
Precautionary Tale

The latest environmentalist concept—the Precautionary Principle—seeks to stop innovation before it happens. Very bad idea.

Look before you leap.

By Ronald Bailey

Sounds reasonable, doesn't it? But how reasonable would it be to take such proverbial wisdom and turn it into a Federal Leaping Commission? The environmentalist movement is seeking to create the moral equivalent of just that. In effect, before you or anybody else can leap, you will not only have to look beforehand in the prescribed manner, you will have to prove that if you leap, you won't be hurt, nor will any other living thing be hurt, now and for



In a symposium titled "The Precautionary Principle: A Revolution in Environmental Policymaking?", environmentalist advocates and academics insisted that a principle of ultimate precaution should trump all other considerations in future environmental and technological policy making.

all time. And if you can't prove all of that, the commission will refuse to grant you a leaping license.

At this year's annual meeting of the prestigious American Association for the Advancement of Science in Anaheim, California, in a symposium titled "The Precautionary Principle: A Revolution in Environmental Policymaking?", environmentalist advocates and academics insisted that a principle of ultimate precaution should trump all other considerations in future environmental and technological policy making. They pointed out that the Principle has already been incorporated into several international treaties, including the Framework Convention on Climate Change and the Kyoto Protocol, which require developed nations to cut back dramatically on the burning of fossil fuels to reduce the putative threat of global warming. The U.S. Environmental Protection Agency is already using it to help guide its promulgation of new regulations on synthetic chemicals.

Jeff Howard, a panel member who once worked on Greenpeace's International Toxics Campaign and now has a gig at the Center for Science and Technology Policy and Ethics at Texas A&M University, defined the Principle: It calls for precaution in the face of any actions that may affect people or the environment, no matter what science is able—or unable—to say about that action.

Before examining this concept, it's worth pausing to see where it came from. Howard's version of the Principle was formalized last year by environmentalist advocates who convened at the Wingspread Conference Center in Wisconsin. Gathering in such a place allowed them to give their ruminations a sonorous title: "The Wingspread Consensus Statement." (After all, you wouldn't want to call such a document "The Bronx Consensus Statement.")

That the Wingspread delegates achieved "consensus" on precaution might imply to some that their meeting was a strenuous, perhaps even contentious, effort by experts of diverse views to find a balance between the demands of scientific inquiry and the well-being of nature. That's certainly how the AAAS meeting treated this "consensus": as though it had arisen from a symposium presenting peer-reviewed scientific data.

But Wingspread's delegates were not exactly diverse; rather, they were a panel of activists with an agenda. They included representatives from an array of like-minded groups, including Greenpeace, Physicians for Social Responsibility, the Toxics Use Reduction Institute in Massachusetts, Britain's Centre for Social and Economic Research on the Global Environment, the Environmental Research Foundation, the Science and Environmental Health Network, the Environmental Network, the Silicon Valley Toxics Coalition, the Environmental Health Coalition, the Indigenous Environmental Network, and the Center for Health, Environment, and Justice. It's not hard to reach "consensus" when you gather a group of people who all share your values and views. If I hand-pick my delegates, I can achieve a consensus on just about anything. (How about the "Miami Beach Consensus Statement on Abolishing Social Security"?)

What did the Wingspread activists finally recommend? The actual text of the Principle that Howard offered at the AAAS meeting reads: "When an activity raises threats of harm to human health or environment, precautionary measures should be taken even if some cause-and-effect relationships are not fully established scientifically."

The Wingspreaders and their followers on the AAAS panel want to apply the Principle solely to environmentalist concerns, but, in fact, their formula is essentially an empty vessel into which anyone can pour whatever values they prefer. It simply codifies a very risk-averse version of standard cost-benefit analysis; the Wingspread participants think that certain activities, such as manufacturing plastics or burning fossil fuels, are unacceptably risky. In other words, very conservative environmentalist values are being privileged over what, to other people, may be equally or more compelling values.

The formula can be adapted to fit many different agendas. Try this, for example: "When an activity (say, employment tests) raises threats of harm to equality and equal access, precautionary measures should be taken even if some cause-and-effect relationships are not fully established sociologically." Or this: "When an activity (say, higher taxes) raises threats of harm to private property or economic growth, precautionary measures should be taken even if some cause-and-effect relationships are not fully established economically." We could do this all day.

The heart of the Principle, of course, is the admonition that "precautionary measures should be taken even if some cause-and-effect relationships are not fully established scientifically." As one biomedical researcher in the audience objected, *all* scientific conclusions are subject to revision, and none is ever "fully established." Since that is the case, the researcher pointed out, the Precaution-

ary Principle could logically apply to every conceivable activity, since their outcomes are always in some sense uncertain. Furthermore, David Murray, the director of the Statistical Assessment Service in Washington D.C., points out another possible—and disquieting—interpretation of the Principle. Anyone who merely raises "threats of harm" with no more evidence than their fearful imagination gets to invoke precautionary measures. Precautionists would not need to establish any empirical basis for their fears; they may simply posit that something might go wrong and thus stymie any proposed action.

Ah, so. Just what these activists had in mind all along, as we shall see.

But let's parse the Principle a bit more. One troublesome issue is that some activities that promote human health might "raise threats of harm to the environment," and some activities that might be thought of as promoting the environment might "raise threats of harm to human health."

Take the use of pesticides. Humanity has used them to better control disease-carrying insects like flies, mosquitoes, and cockroaches, and to protect crops. Clearly, pesticide use has significantly improved the health of scores of millions of people. But some pesticides have had side effects on the environment, such as harming nontargeted species. The Precautionary Principle gives no guidance on how to make this tradeoff between human health and the protection of nonpest species (though I suspect I know how the panel members would choose).

During the discussion period, another audience member asked panelist Steve Breyman, a professor in the Department of Science and Technology Studies at Rensselaer Polytechnic Institute, if he thought the last 200 years had been all bad. Breyman revealingly responded with something like, Oh sure, some things like life expectancy and living standards have improved, but there have been losses too. The quality of drinking water, Breyman asserted, has gone down.

Really? Two hundred years ago, drinking from any stream, well, or spring could expose one to typhoid, typhus, cholera, and other diseases. In fact, chlorination has so improved drinking water quality with regard to health that people in the West no longer even think twice about drinking tap water. Unfortunately, more than a billion people in the developing world can't say the same; millions still die of water-borne diseases each year.

Proponents of the Precautionary Principle are trying to smuggle in a default position: The environment trumps all other values. Yet the panelists all pretended that the Principle is a value-neutral scientific procedure for determining which policies humanity should pursue. The fact is that the Precautionary Principle incorporates the values of the most extreme versions of know-nothing environmentalism. When challenged from the audience on this point, Breyman fumed, "We're talking about the survival of the planet and the human race here."

Breyman sees the Precautionary Principle as an essential part of a radical agenda to reshape human culture. He writes in his AAAS presentation, "Introduced as part of an overall green plan that included conservation and renewable energy, grass roots democracy, green taxes, defense conversion, deep cuts in military spending, bioregionalism, full cost accounting, the cessation of perverse subsidies, the adoption of green materials, designs and codes, green purchasing, pollution prevention, industrial ecology and zero emissions, etc., the PP could be an essential element of the transition to sustainability."

Jeff Howard later offered some corollaries to the Precautionary Principle that reveal just how sweeping a proposal it is.

The first corollary is that "the proponent of an activity, rather than the public, should bear the burden of proof (reverse onus)." This means that "proponents would have to demonstrate through an open process that a technology is safe or necessary and that no better alternatives were available." Unlike the members of the AAAS panel, Boston University law professor George Annas, a prominent bioethicist who favors the Precautionary Principle, clearly understands that it is not a value-neutral concept. He gleefully told me, "The truth of the matter is that whoever has the burden of proof loses."

The result: Anything new is guilty until proven innocent. It's like demanding that a newborn baby prove that it will never grow up to be a serial killer, or even just a schoolyard bully, before the baby is allowed to leave the hospital. Under this corollary, inventors, scientists, and manufacturers would have to prove that their creations wouldn't cause harm—ever—to the environment or human health before they would be allowed to offer them to the public. This is asking them to prove a negative. How can someone prove that a new plastic will never, ever interact with any metabolic pathway in any plant, animal, microbe, or person? There is simply no way to test for all possible effects given the millions of different species living on the earth.

But is this inability to test for everything really

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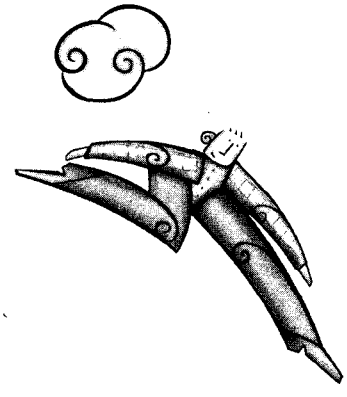

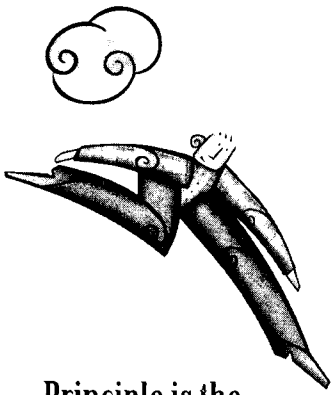

Principle is the notion that we can anticipate all of the ramifications of a technology in advance and can tell whether on balance it will be a net benefit or cost to humanity and the environment. That's complete nonsense.

dangerous? Howard thinks it's murderous. He warned the audience that humanity has been engaged in a "great global experiment since the dawn of the chemical age" and predicted that "death and disease will increase as a result."

The plain fact is that the introduction of thousands of synthetic chemicals has not resulted in increased levels of death and disease but *has* resulted in substantial health benefits and greater convenience and efficiency. Life expectancy has never been higher and, as just reported by the National Cancer Institute, even cancer incidence rates are going down. In addition, the Food and Drug Administration estimates that less than 2 percent of cancers are the result of exposure to man-made substances. Finally, the few bad actors, like some organochlorine compounds, have been replaced.

Under the "reverse onus" corollary, would-be innovators would have to demonstrate that a technology was "necessary" because no alternatives were available. Necessary? Like air, water, and food? This is potentially a *very* high threshold. Are antibiotics necessary? Computers? Microwave ovens? What makes something "necessary" or not depends on the goals that individuals are trying to achieve. Necessity is the mother of invention only to the degree that it is in the eye of the inventor.

This requirement of demonstrable necessity ignores a vital fact about progress: All technologies serve as bridges to other technologies, to ever-better alternatives. For example, without the production of fossil fuels, humanity would not be in the position to make the costly, knowledge-intensive transition to the solar/hydrogen future that environmentalists wish to subsidize into existence. One technology leads to another. As dirty as burning fossil fuels may be, they aren't a tenth as dirty as burning wood.

Embedded in the Precautionary Principle is the notion that we can anticipate all of the ramifications of a technology in advance and can tell whether on balance it will be a net benefit or cost to humanity and the environment. That's complete nonsense. To cite a single example, when the optical laser was invented in 1960, it was dismissed as "an invention looking for a job." No one could imagine of what possible use this interesting phenomenon might be. Of course, now it is integral to the operation of hundreds of everyday products: It runs our printers, runs our optical telephone networks, performs laser surgery to correct myopia, removes tattoos, plays our CDs, opens clogged arteries, helps level our crop fields, etc. It's ubiquitous. Yet no one anticipated—no one could have anticipated—how incredibly useful lasers would turn out to be, not even the wisest tribunal of environmentalist seers or panel of Federal Leaping Commissioners.

The same thing goes for items which eventually turned up on the environmentalist hit list: organochlorine pesticides. After all, it is not as though evil chemical corporations invented pesticides for the purpose of polluting the environment. When these compounds were introduced they were a genuine miracle; they saved millions of lives that would have been lost to malaria and malnutrition. No one could have anticipated that their persistence in the environment would allow them to accumulate in animal fat, leading to some reproductive problems in eagles and falcons. The data simply weren't there. Indeed, there was not even a theory of bioaccumulation. Only by gaining experience with these substances were we able to learn about their downside and eventually decide that other, less persistent pesticides achieved a better tradeoff between human benefits and harm to the natural environment.

A second vexed corollary is that "the process of applying the Precautionary Principle must be open, informed and democratic and must include potentially affected parties." At one point, panel member Breyman declared that we had to get environmental decisions out of the hands of EPA regulators. Sounds good, right? But what if the open, democratic process ended with a choice to exploit a natural resource in ways that environmentalists don't like?

The deputy administrator for the National Marine Fisheries Service, Andy Rosenberg, happened to be in the audience and offered an illustration of realpolitik to the panel's starry-eyed egalitarians. Rosenberg pointed out that if you allowed New England fishermen to vote on whether or not to keep the cod fishery open, they would fish it until the last fish was gone. Breyman responded lamely that if the fishermen did that, they didn't have enough information.

Other panelists suggested that the "affected parties" aren't just fishermen, but all of us. If we don't get the result we like at one democratic level, these panelists implied, we'll just keep shifting the definition of "affected parties" until we do get the result we like. But wait a minute. Does this mean that when one of us wants to engage in an activity that someone thinks may result in harm, we *all* get to vote on it?

This problem—deciding who gets to decide what—is just one of many slippery slopes that the Precautionary Principle teeters over. Of course,

it quickly became apparent that, for the AAAS panel, the only democratic decisions that are acceptable are those consistent with environmentalist goals. But other obvious problems were never acknowledged.

For example, democratic decision making concerning any and all environment-affecting actions could have the effect of ratifying extraordinarily conservative choices. That is, a community could use its environmental veto to say, No, we don't want a new store, a new housing development, a new factory, a new road. Basically, it means that the vested interests of the present can strangle the future. After all, as one wag noted, an environmentalist is somebody who already owns his second home in the woods.

Of course, neither the regulators at the meeting nor the environmental activists on the AAAS panel considered a real solution: removing the decisions about resources from the political process entirely. Politics is always win/lose, while market decisions are generally win/win. Give fishermen, loggers, and cattlemen secure property rights to the resources, and that shifts their incentives toward trying to protect and enhance *their* resource, rather than merely plundering somebody else's resource.

Draconian as the Wingspread proposals are, Jeff Howard doesn't think they are strong enough. He fears that wily capitalists and innovators will find ways around them, so he suggests five additional tenets:

- Precaution must become the default mode of all technological decision making.
- Even the most fundamental of past decisions must be subject to re-examination and precautionary reform.
- The primary mode of regulation and regulatory science should be at the macroscale.
- Knowledge of broad patterns trumps ignorance of detail.
- Human society must identify and accommodate itself to broad patterns in natural processes.

Consider for a moment the tenet that "even the most fundamental of past decisions must be subject to re-examination and precautionary reform." Actually, the process of technological innovation constantly "re-examines" past decisions, but that's not what Howard has in mind. He wants to create a political process, which he naturally insists would be open, that would eliminate technologies of which he disapproves: nuclear power plants, organochlorines, most plastics, etc. But what I find intriguing is the idea that "even the most fundamental of past decisions" could be "reformed."

How fundamental is fundamental? Decisions like the invention of the automobile? The use of fossil fuels? The development of agriculture? Fire? Look at Howard's last tenet, that society must accommodate itself "to broad patterns in natural processes." What violates the broad patterns in natural processes? Medicine? City building? Farming?

Before the AAAS session ended, Howard offered a third corollary to the Principle: "Precaution requires consideration of the full range of social and technological alternatives" to what is being proposed. It is very much in line with the Wingspread Consensus Statement, which declares that precaution "must also involve an examination of the full range of alternatives, including no action."

Environmentalists often liken technology and economic growth to a car careening down a foggy road. They suggest that it would be better if we slowed before we crashed into a wall hidden in the fog. The Precautionary Principle, its champions believe, "would serve as a 'speed bump' in the development of technologies and enterprises."

Unfortunately, these principles and tenets may sound sensible to many people, especially those who live in societies already replete with technology. These people already have their centrally heated house in the woods; they already enjoy the freedom from want, disease, and ignorance that technology can provide. They may think they can afford the luxury of ultimate precaution. But there are billions of people who still yearn to have their lives transformed. For them, the Precautionary Principle represents not a speed bump but a wall.

Should we look before we leap? Sure we should. But every utterance of proverbial wisdom has its counterpart, reflecting both the complexity and the variety of life's situations and the foolishness involved in applying a short list of hard rules to them. For some people in some situations, "Look before you leap" is good advice. Others might be wiser to heed the equally proverbial, "He who hesitates is lost."

People have understood this maxim for millennia, and the chances are that its message will eventually reach even Wisconsin's Wingspread Conference Center. And when it does, I want the Wingspreaders to understand that the moral equivalent of a Federal Anti-Hesitation Commission isn't such a good idea, either. ◆

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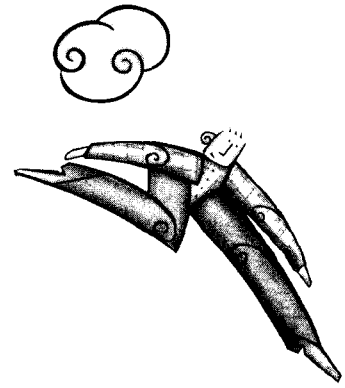

"THE BODY" POLITIC

Minnesota Gov. Jesse Ventura slams Republicans, Democrats, and big government.

Interviewed by Jonathan Rauch

Last November, Jesse Ventura ran on the Reform Party ticket and won a three-way race for governor of Minnesota with 37 percent of the vote, soundly defeating Democratic Attorney General Hubert "Skip" Humphrey III and Republican candidate Norm Coleman. It says something about the 47-year-old former mayor of Minneapolis suburb Brooklyn Park that his colorful past as a Spandex-clad, boa-wearing professional wrestler is far from the most interesting thing about him.

Indeed, Ventura, known as "The Body" during his wrestling days, brings much more than a pair of bulging biceps to the Gopher State governor's mansion. He brings a slew of unconventional ideas—including drug decriminalization, sessions devoted to repealing existing laws, and scrapping one house of the state legislature—and a blunt, in-your-face style rarely seen in politics ("You can't legislate stupidity" was one of his campaign slogans). Ventura, a self-described libertarian, also brings along a demonstrably potent political strategy that blends radical views about reducing government with an appreciation for incremental change.

While that strategy has brought him to high office, it remains to be seen how Ventura will fare as he wrestles his toughest opponent to date, Minnesota's state legislature. As he begins his tenure, only this much seems certain: Whoever wins the match, the 6-foot, 4-inch former Navy SEAL will be interesting to watch.

National Journal's Jonathan Rauch talked with Ventura in Minnesota last December. Portions of the following interview originally appeared, in different form, in Rauch's January 9 *National Journal* column.

AP / WIDE WORLD PHOTO

Body Language: Jesse Ventura at his "People's Inaugural" in January. "I'm different.... People...like someone who doesn't cower in the corner and go, 'Oh, if I bring this up I'll never get elected.'"

Reason: Are you still surprised that you won the governor's race?

Jesse Ventura: I was never surprised. I expected to win. I wouldn't have entered otherwise. I don't go into things expecting to lose. It just all fell into place, and on the night of the election I felt very confident. A year before this happened, [my team] felt that if we could be polling in the mid-20s, we had a shot—and I was placing in the high-to-low 30s in the final polls. I knew that the difference would be the newly registered voters. They showed up in Brooklyn Park when I ran for mayor. They're the ones pollsters don't count on.

Reason: You ran as a Reform Party candidate. Did you ever consider being a Republican or a Democrat?

Ventura: No. They turned against me when I ran for mayor in 1990. The Democrats and Republicans banded together. The whole race was supposed to be nonpartisan. But leaders of both parties co-signed letters to all the people of Brooklyn Park, telling them that they were dropping party differences and uniting behind the 20-year incumbent mayor. They called me the most dangerous man in the city.

Reason: Why?

Ventura: Because I wasn't one of them. And I ended up winning 65 percent to 35 percent. That's one reason I knew I could win the governor's race. I beat both parties when they were united. So why couldn't I beat them when they were separated?

Here's the best part: Within weeks of [my] becoming mayor, leaders from both parties courted me to join their parties. That showed me that they think the ends justify the means. It also showed me that they have no integrity. After calling me the most dangerous man in the city, they now welcomed me with open

arms. Never once would I consider being either a Democrat or a Republican. I don't fit into their scope. I'm fiscally conservative and socially moderate to liberal. How can you be that and fit into either one of their parties?

Reason: That's right. You're pro-choice, so on the abortion issue alone, you'd be drummed out of the GOP on the national level.

Ventura: And with the Democrats you can't be fiscally conservative. You've got to think that the way to solve everyone's problem is to tax and spend and grow money.

Reason: You've been called a libertarian. Is that an accurate characterization of your politics?

Ventura: Sure. I am a libertarian. I've taken the libertarian exam and scored perfect on it. There's this 10-question quiz that the Libertarian Party puts out. They give you 30, 20, or 10 points, depending on how you answer the questions. I've gotten all 30s.

Reason: Doesn't that include a question about legalizing drugs?

Ventura: Yeah.

Reason: Are you for legalizing drugs?

Ventura: Personally, not politically. When you say "legalizing," I would use a better term of "decriminalizing." I'm for giving the addict a way to get it so he doesn't have to go out and hold up the 7-Eleven store to get enough money to go buy it at these inflated, ridiculous prices that prohibition causes. I'll tell you why I think the war on drugs is a failure: I believe it because my mom told me so.

Reason: Your mother told you so?

Ventura: She lived through liquor prohibition. She told me that the war on drugs today is identical to that. All it does is create a way for criminals to make money, which is exactly what alcohol prohibition did in the 1920s. It created a source for Al Capone and other organized crime figures to become extremely wealthy. They had a popular commodity they could sell on the black market, the same as you have today. If you want to put the gangs out of business, then you have to do something with their trade. You have to hit them economically.

Reason: You made a distinction between a personal view and a political view. What do you mean by that?

Ventura: My feeling about drugs is not a political view because most Minnesotans probably disagree with me. Because they disagree with me, I'm not going to push it. But I certainly will speak my opinion of it and try to change minds. But the voters can disagree with my opinion, you know.

During the campaign, I got into a lot of trouble over prostitution and drugs. The media asked me, "Do you support legalizing drugs and prostitution?" and my answer was, "Absolutely not." But then I went on to state that I was open-minded enough that I would certainly look at other alternatives to what we're doing.

Reason: I've interviewed a lot of politicians, and they don't talk about personal views quite so freely.

Ventura: I'm different. My view was that if I didn't get elected, I'd go back to my old talk radio job and do what I always did in the private sector. When the press covered my views on drugs and prostitution, they said that I destroyed myself, that my campaign was over. But people didn't care a bit. They felt that I was a guy who's got guts enough to bring things up. They like someone who's not afraid, who doesn't cower in the corner and go, "Oh, if I bring this up I'll never get elected."

That's one reason I fired back at Hillary Clinton. She came out here the Saturday before the election to campaign for [Democratic candidate] Skip Humphrey. She made a big speech and appeared all over the state, stumping for Skip. She made a statement to the people of Minnesota that it was time to end the side-show carnival act, which was me. The press came to me and said, "How do you feel about the first lady saying that it was time for Minnesotans to put aside the side-show carnival act?" I said, "I think it would be more appropriate if the first lady worried more about leaving Bill home alone. Because it seems whenever she leaves, Bill gets into mischief."

Reason: How did that go over?

Ventura: Ask her. It didn't hurt me, though. I guess I'll find out how she felt about it in February, when I go to Washington for the big governors' meeting.

Reason: One of your most memorable campaign slogans was, "You can't legislate stupidity." What did you mean by that?

Ventura: Let me explain with an example: Here in Minnesota, we have more than 10,000 lakes. Every year when springtime comes, we'll get seven days of beautiful 80-degree weather, but there will still be ice on the lakes. Somebody will decide that they have to take a snowmobile out on the lake. And that person will fall through the ice and drown. Right away, you'll hear an outcry: "We have to make it against the law to ride on lakes after the temperature has been over 75 degrees for seven days in a row." That's what I'm talking about. You can't legislate stupidity, because people do stupid things, always will, and government should get out of the business of passing laws to stop them. Every one of us has done stupid things. Sometimes a stupid thing can become fatal. But it doesn't mean that, all of the sudden, you have to go out and pass laws to protect people from doing stupid things. The drug issue falls under this, too: If people are stupid enough to do drugs—if they're stupid enough to get hooked on crack or cocaine or whatever else—how are you going to legislate that away?

There's too many laws altogether. If they tell you ignorance

"You can't legislate stupidity, because people do stupid things, always will, and government should get out of the business of passing laws to stop them."

of the law is no excuse, then we should all be running around with backpacks. Because you need so many backpacks with those *law* books so you wouldn't be ignorant. Here's an example of a stupid law from when I was doing talk radio. I was talking about prostitution, and I brought up the fact that it's only illegal because money is exchanged. It's only a sex act, and if two consenting adults do it and there's no exchange of money, then it's OK, right? Well, lo and behold, in Minnesota, that's not OK. A cop faxed me a copy of a fornication law that's still on the books here. It states unequivocally that if you're two adults and you're unmarried, you can be arrested for having sex. They've never taken it off the books. Technically a police officer could arrest you, just for having sex.

Gripping Presence: "I'm going to scrub the [law] books, but I'm going to do it very carefully, very prudently."

Reason: Are you planning on trying to change that?

Ventura: I don't know about that one in particular. But I've suggested that every fourth year, the legislature would not make any laws. Instead, it would go back and repeal old and outdated ones that don't apply anymore. I'm a believer that there should be a sunset provision on anything that's passed. After a certain length of time, it would require you to go back and review the law or the program or whatever you passed. We should have to review it and figure out if it's working.

Reason: Do you see that as a practical proposal or a thought experiment?

Ventura: I see it as a practical proposal.

Reason: So you may actually push something like that?

Ventura: Yeah. I may. All they can say is no. I've gotten great results in saying it to the general public.

Reason: You've talked about taxes being too high, but as near as I can tell you haven't talked much about the size of government per se.

Ventura: Sure I have. It's too big.

Reason: Do you see yourself as a governor with a cutting-government agenda? Do you want to go through and scrub the books and get rid of stuff?

Ventura: Somewhat. I'm going to scrub the books, but I'm going to do it very carefully, very prudently. I'm not going to just rush in. I'm not going to have any knee-jerk reaction in any manner.

Reason: Are there any specific things you want to get rid of?

Ventura: Yeah. One house of the legislature. I'm a big supporter of unicameral legislatures. What do we need two houses at the state level for? If you don't have dual houses in the federal government, then states like California, New York, and Texas would have all the power. That's why you've got to have the Senate, where every state gets two votes, regardless of population or size. But at the state level, there's no reason whatsoever to have the senate.

I'd also like to get rid of all state-level two-year terms and make them four. As it is, you get rookie legislators who have never done their jobs before. They spend their first year getting acclimated and their second year running for re-election. What do they get done? Nothing. And then if they get beat—what a waste of two years. Make all terms four years. And get rid of one house.

I'd also like to raise their salaries. Cutting one house would save about $25 million a year, so you could afford to make legislators full-time and less dependent on special interests.

Reason: Minnesota state legislators are not full-time?

Ventura: No. If I call a special session, they have to come here and we have to put them back on the payroll, with all these per diems and this and that. If you get a decent salary, then it would instill a better-qualified person to want to seek out public service. And it would also make it possible for representatives to go back to their districts and spend down time visiting constituents and looking over their district, rather than taking care of their own business.

Reason: Tell me about your feelings on education. The standard libertarian view leans toward vouchers, as did your predecessor, Gov. Arne Carlson.

Ventura: When vouchers were first introduced, I couldn't get them [for my kids]. There were limits—if you made over so much money, you couldn't qualify. That means I had to either pay full rate or get stuck with a public school. I think if you're going to come out with something like that it should be available to all.

Reason: I asked Governor Carlson about that and he said, "Well it's a first step, you know, you can't get everything at once. But it's a step in the right direction."

AP / WIDE WORLD PHOTO

Ventura: I don't think so. My point is this: What happens to all the people who can't use the vouchers and go to private school? What do they get stuck with then, a sub-standard public school system? I'm a product of public schools and I challenge people: Rather than running from public schools, let's band together and make them better. I believe in fighting the fight, not retreating. And what you have today is people retreating from public schools. The good people are running away instead of fighting the fight. Sure there's improvements that have to be made. There's a lot of stuff in public schools that have to be fixed. But you don't fix them by running away from them.

Reason: One of your high priorities is to reduce class size. Was that an idea you had from the start?

Ventura: No. That came on when I brought Mae Schunk on board as my lieutenant governor. When I started my run, I was polling four times better with men than women, which told me I needed a female running mate. Also, since I was a mayor and mayors don't deal much with education, I knew I needed someone strong in that. So I knew I needed a woman from education to solidify my run. Mae's been a teacher for 36 years. If you want to find out what's going on in school, ask a teacher. And she said the key is getting our class sizes down, where teachers can teach 17 kids, especially in kindergarten through third grade.

Reason: So the class reduction measure will be an early legislative item?

Ventura: Yes.

Reason: What's your thinking on Minnesota's budget surplus? Some observers say that you're hedging on giving it back to taxpayers.

Ventura: A budget surplus is easy to deal with: It means they've overcharged you. It's no different than the electric company. Let's say you get a bill where they charge you $200, using an estimated reading. Then the actual reading gets done and you only owe $100. Don't you think you should be given credit back immediately? Or do you allow the electric company to say, "Well, we overcharged you $100, but we need to do it to explore alternative energy sources. So we're going to keep your $200." The government would *never* allow a company to do that. And it shouldn't be allowed to overcharge you, either.

My point is that I want to balance the books at the end of the fiscal year [June 30] before we give money back. I don't want to do it on speculation because I don't deal with speculation. All of these experts that did speculation and statistics and all that—well, they speculated that I wouldn't be sitting here, and I am. So I don't deal with speculation. I deal with real money in the bank. When the real money's there and the books have been balanced, if there's extra money there, it goes back to the taxpayers.

Right now, I've got the Republicans haranguing me that it needs to go back to taxpayers immediately.

Reason: I assume they're afraid it will get spent in the meantime.

Ventura: Not if they don't spend it. The legislature must have a control problem. The last time they were in session they had that problem. I can control the spending. They're telling me they can't. They're telling me, "You better get it out of our hands because we have no self-control." It reminds me of children. They don't have the self-control.

Reason: Now that you've been elected, do you find you have to tone down your style? Or do you still show your biceps when someone asks how you're going to handle the legislature?

Ventura: No, I haven't toned down. But I don't show my biceps now because I wasn't able to work out for months because of the campaigning. Someone wanted me to take my shirt off today for a photo shoot and I said, "Absolutely not." I have my personal body pride. Wait till I get back in shape, and I'll be happy to. I've already said, "Wait till summer time, when I take the lawn chair out there [on the deck off the capitol building] to get some rays."

Reason: Would there be security concerns if you did that?

Ventura: Security? I already go out there to have a stogie now and then, 'cause you can't smoke inside any of Minnesota's public buildings.

Reason: I was going to ask you what you thought of the tobacco settlement.

Ventura: The tobacco settlement was handled the exact opposite way that it should have been. It should have been the U.S. Food and Drug Administration that went to the tobacco companies and said, "You're falling under our jurisdiction, nicotine's a drug. We're going to control how you operate." That would have been better, because then you know what would have happened? The tobacco companies would have sued the government instead of the other way around.

"A budget surplus is easy to deal with: It means government overcharged you. And it shouldn't be allowed to overcharge you, either."

The dangerous precedent that was set by the tobacco settlement is that the government has now found a way to raise taxes using the court system rather than the legislature. I don't like that. I mean, I'm glad the money's here. It gives me more to work with, but...

Reason: ...but you would oppose that sort of policy?

Ventura: What's next—suing Bill Gates?

Reason: Gun makers are already getting sued by cities.

Ventura: There you go. Government has now found a way to go out there and impose their will and their taxes upon legal, private businesses. Government has now found a way to go out and get money where they don't have to do it in the legislative forum.

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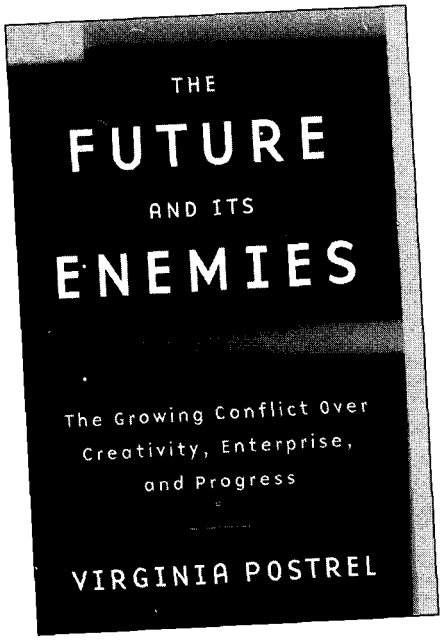

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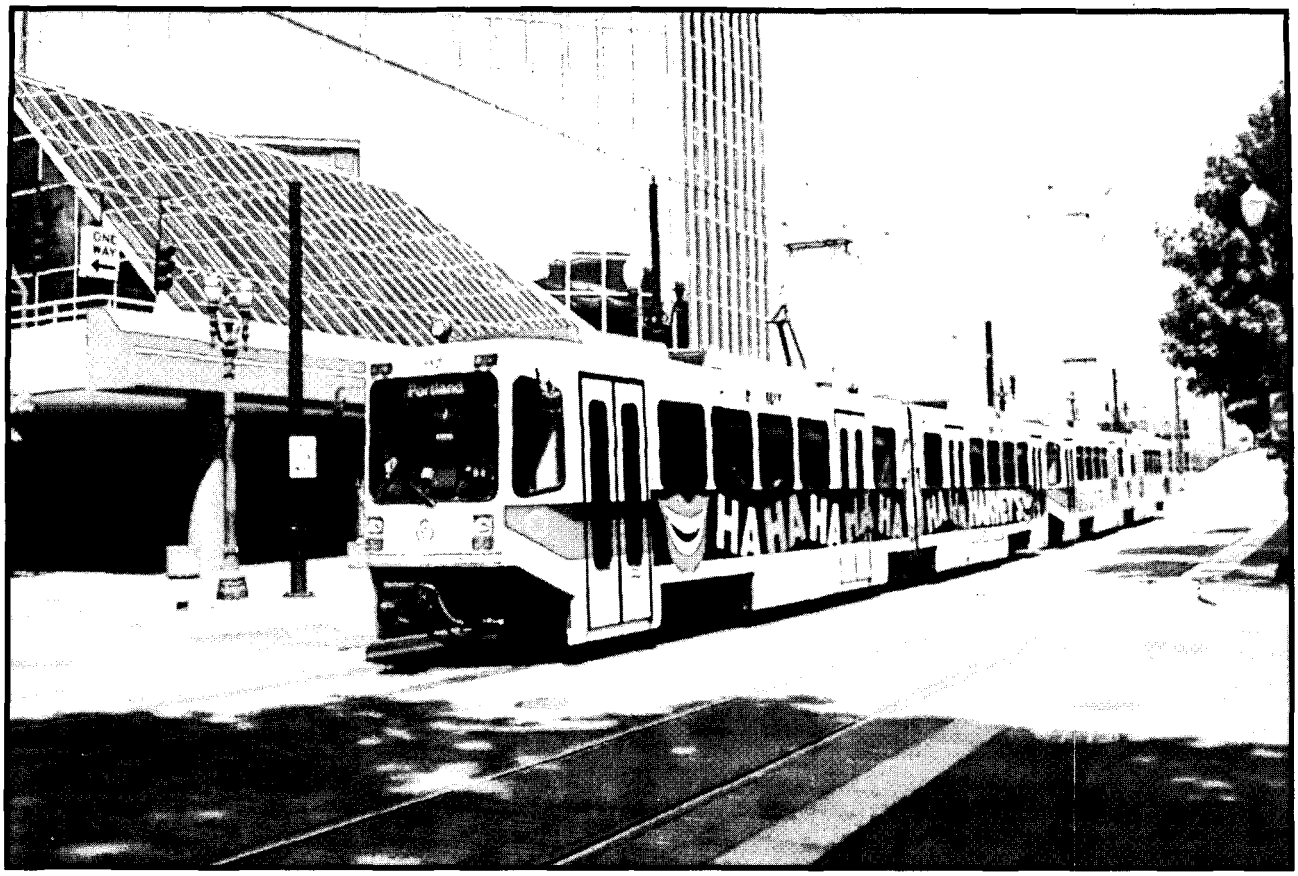

RANDAL O'TOOLE

Dense Feedback

Randal O'Toole's "Dense Thinkers" (January) prompted more reader commentary than usual, so we decided to devote a special section to it. Here are some of the letters, along with O'Toole's response.

■ ■ ■

"Dense Thinkers" hit the nail on the head. It thoroughly exposed the flawed "New Urbanism" that is being foisted on the Portland, Oregon, metro area. It also sends a powerful warning to other areas where residents have been gulled into thinking Portland is a model to emulate.

Thanks to the efforts of Randal O'Toole, along with John Charles of the Cascade Policy Institute, Mel Zucker of the Oregon Transportation Institute, Ted Piccolo of Atlas Oregon, Larry George of Oregonians In Action, and others, more and more people in the Portland area are opposing high densities, rigid urban growth boundaries, ineffective and costly light rail, get-out-of-your-car policies, and loss of quality of life.

Urban residents are now getting a taste of the state-dominated land use planning system that has been victimizing rural Oregonians the last 25 years. The state mandated that 97 percent of all private rural land be zoned for farms and forests, with little or no regard for the suitability of the land for farming or forestry and with no compensation to the landowners who were downzoned.

Bill Moshofsky
Portland, OR

Thank you so much for the excellent article on Portland, Oregon. I personally am sick of seeing Portland viewed as a model when it is nothing to take pride in.

I am the attorney for the Dane County Towns Association in Dane County, Wisconsin. We have been fighting the same kind of radical, coercive collectivism for years. Recently, we mounted an all-out effort to defeat a new land use and transportation plan proposed by the Dane County Regional Planning Commission which expressly followed the New Urbanism line. We lost, but we succeeded in raising awareness among the small communities in our county. This year, we converted that awareness into action and mobilized these communities to support dissolving the Regional Planning Commission.

Mark Hazelbaker
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Randal O'Toole says land use planners who favor high-density cities over suburban sprawl are "Dense Thinkers." He rightly notes that the automobile is central to the post-1945 population shift from cities to suburbs and, more recently, exurbs.

O'Toole implies that the car's ascendancy over other forms of transportation is the natural result of private choices in the market. But the use of cars is heavily subsidized by government. The construction and maintenance of roads is the largest and most obvious way government favors cars. These dollars far exceed those the government spends subsidizing rail, air, and foot transportation.

Also, the costs of cars' pollution are not fully borne by those who do the polluting. This negative externality is another government subsidy for cars over those forms of transportation that pollute less.

The exodus from cities to suburbs is, to a large extent, just another product of the government's social engineering. Why, then, would REASON celebrate it?

Stephen J. Ware
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Randal O'Toole is right: New Urbanism is as shallow a planning fad as garden suburbs and slum clearance. But it's not entirely wrongheaded. The New Urbanists acknowledge that some of the most pleasant communities we have in our cities were designed in the 18th and 19th centuries without building codes, land use zoning, property setbacks, and all the current paraphernalia of local government controls. I'm thinking of Old Town in Alexandria, Virginia; Georgetown, now probably the highest-value area in the D.C. metro area; Nob Hill in San Francisco; and Greenwich Village in New York City. Government controls have made it impossible for developers today to build on lots as small as those typical in such neighborhoods. The New Urbanists are at least aware of the damage done by current land use and occupancy controls, which prevent the diversity, spontaneity, and flexibility that many people find attractive in these old areas.

Also, our cities' low densities—or "sprawl," as the New Urbanists vilify it—are not entirely the product of people's desires about how they wish to live. Most planning controls specify minimum lot sizes and minimum requirements of other kinds and effectively dictate maximum density levels. Moreover, the politics of local government gives considerable muscle to people protesting townhouses, apartments, and indeed almost any development.

There's another group of little design dictators in most American communities: the local fire and rescue brigades. If the city approves a development with tighter intersections, narrower local streets, or other traffic calming measures, these interests invariably evoke images of little old ladies being burnt to death in second-floor rooms while the fire truck crawls around a traffic circle or tight street turn. And the local police will warn against permitting alleyways—a wonderful invention now too seldom used—because they might be useful getaway routes for burglars.

I guess it is just a personal prejudice, but here's one libertarian who agrees with the New Urbanists on another point: There's a lot to be said for having more "walkable" communities. It can be healthy, enjoyable, and efficient to walk to do one's small-item shopping and banking. And there is some truth to the claim that people who walk the streets and have the opportunity for casual interaction with neighbors may form a better-integrated community than people who drive everywhere.

Nonetheless, O'Toole's central criticism of New Urbanism is valid. Insofar as it wants to mandate that all new development conform to its high-density preference, it is simply authoritarian. As O'Toole says, the New Urbanists make a fraudulent promise when they claim denser development will be more economical development. (A bit of extra plastic pipe is far cheaper than the extra time of engineers and surveyors and ditchdiggers needed to crowd utilities together.) Denser development makes it more difficult, not less, to meet clean air standards. And the New Urbanist assault on "big box" stores is nostalgic and elitist, irresponsibly ignoring the tradeoff of small-store prettiness with efficiency, lower prices, and greater choice.

To the extent that the New Urbanism blames highways for sprawl, it is simplistic. Any underpriced form of commuter transportation, whether it is road or rail, will tend to stack the urban deck in favor of excessively spread development. But again, New Urbanists have a point. Many appurtenances of the mass ownership of automobiles—commercial strips in new areas, vast parking lots at new shopping malls—are unlovely. And there is something in the scale of freeways, especially in the newer cities of the south and the west, that even a hard-boiled libertarian can find disturbing. We'd be better off with a lot more, but smaller-section, highways—a denser net of parkway-like roads, like those found in Westchester or Minneapolis, rather than the eight- and 10-lane freeways of Los Angeles.

By preventing the construction of highways on new alignments, the stop-the-freeways crowd has inadvertently encouraged the steady widening of freeways into the superhighways we have today. The politicians and planners take the path of least

political resistance and keep adding lanes to an existing road, rather than building an additional one between two existing freeways. A more market-oriented approach might be helpful.

In short, the New Urbanists make good points and bad. We don't compromise the battle against their bad ideas by acknowledging that some are good.

Peter Samuel
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Randal O'Toole's article was well-written, intelligently organized, and researched in depth, but unfortunately it seemed narrow in focus and limited in perspective.

Every country in Europe has a multiplicity of transportation options, whether for moving freight or moving passengers. In America, we are dominated by one: the highway. Cars are not bad in themselves, but when they are the only option they become a severe problem.

For rail and other transportation options to be viable, people need to live in higher-density neighborhoods. Only with higher density can a sense of community develop and grow.

Since the end of Word War II, America has been zoned and developed so that the functions of life are separate and distinct, making it impossible for communities to develop. Living in an urban area that requires walking to the store, theater, coffee shop, or supermarket or to visit friends and family, people are able to get to know each other, and that creates healthy, vibrant communities. Forced to isolate themselves in their suburban homes and get everywhere in their automobiles, three generations of Americans have not had the opportunity to know the pleasures of community living.

If Americans had had the opportunity to grow up in vibrant, healthy, safe, exciting cities like Rome, London, and Copenhagen, a large percentage would opt to live downtown in healthy, higher-density communities. For three generations Americans have not known what real cities and communities are like. New Urbanism is America's first real attempt to remedy that situation.

Douglas E. Morris
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Randal O'Toole erroneously identifies New Urbanism as a movement intent on tyrannical bureaucracies and Draconian development controls. New Urbanism is a design philosophy whose aim is to blend the civic and convivial qualities of pre–World War II neighborhoods with the convenience and market viability of modern car culture. It is quite possible for high-density development to utterly fail the precepts of New Urbanism (Crystal City near the Pentagon, for example).

Less than 0.1 percent of new developments are New Urbanist. The low percentage is not for lack of customers but rather the result of institutional inertia and restrictive zoning ordinances. In most parts of the country, it is illegal to build according to New Urbanist guidelines. Architects, developers, and activists often contend with intransigent regulators, notwithstanding Portland, Oregon.

Many New Urbanists believe their aesthetic can succeed on a playing field free of distorting subsidies and obstructive ordinances, since one-third of marketing survey respondents prefer New Urbanist developments to conventional suburbia. The design standards promoted by the Congress for the New Urbanism result in neighborhoods that enjoy strong consumer demand. Even in Cleveland, O'Toole's favored example of urban renewal, architectural design standards were employed. And the private organization responsible for much of Cleveland's comeback—MidTown Cleveland—is now planning transit-oriented developments.

Laurence Aurbach Jr.
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As Randal O'Toole points out, New Urbanism has become an environmental fad, and cities too often plan based on the latest craze rather than on accumulated wisdom.

But there is nothing per se objectionable about smaller-lot, more walkable suburban development, so long as that is what at least some people want. Pre-war suburbs were built this way, and many are still highly livable and popular. Driving to a superstore each week in search of better selections or lower prices is sensible, but having to fire up the SUV just to pick up a loaf of bread is ridiculous.

The objectionable aspect of some governmental applications of New Urbanism is compulsion. Government should let people freely choose city, suburban, or rural living and high densities or low, but also see that they pay the full cost of their choice.

New Urbanism works better as a developer's business decision than as a political mandate. Government's role should be to remove regulatory obstacles, such as inflexible zoning, that stifle such innovations. If a builder foresees local demand for a denser style of subdivision, let him build Phase 1. If he's right, he'll build

The objectionable aspect of New Urbanism is compulsion. Government should let people freely choose city, suburban, or rural living and high densities or low, but also see that they pay the full cost of their choice.

—John L. Gann Jr.

more and he'll be copied. Planners and environmentalists will be happy.

John L. Gann Jr.
Glen Ellyn, IL

Randal O'Toole's piece on the New Urbanism drew my ire. Some folks like the suburbs, with their look-alike housing developments, cookie-cutter strip malls, office parks, and endless rows of drive-ins. I like Main Street, the old neighborhood, and living within walking distance of the train station. To the extent (and only to the extent) that the state is encouraging suburban sprawl, it should be doing the same for older, inner-city areas. And if the final deal is $0 in subsidies for suburban sprawl, then $0 for New Urbanism is just fine with me too.

Some folks appreciate the independence that the private automobile affords them and feel particularly Jeffersonian while crawling along I-95 in rush hour traffic. Me, I prefer the train. But the issue is one of choice. When I have to decide the best way for me to get from point A to point B, I want to have alternatives. To the extent that the state is in the highway business, let the state be in the mass transit business.

O'Toole also fails to mention the plight of those who cannot drive: the young, the handicapped, and the elderly. Dare I be politically incorrect and mention the fact that in many communities where there is no public transportation, we have elderly people driving around who cannot see the road or control the autos they are driving? In the near future, the baby boomers will be of retirement age, and I-95 will become a thousand-mile stretch of bumper cars. Are those who cannot or should not drive going to be taxed to pay for highways they cannot use?

O'Toole mentions the tax breaks for those who build high-density housing near trolley stations. This is where we agree; such tax breaks are absolute folly. Ironically, they just may be the very reason that such a small percentage of the residents use the trolley. The tax breaks enable the developer to offer below-market rents. This, in turn, becomes a subsidy to the renter, lowering his rent so he can have the convenience of the trolley and his private automobile. It can be argued that the tax break effectively causes the rather low percentage of residents in these apartments who commute by trolley.

Conversely, Manhattan residents can afford to spend a greater percentage of their income on rent since they don't need an automobile, gas, oil, parking, tolls, and insurance. They pay a premium for not having to incur the cost of an automobile. The ludicrous tax break simply subsidizes the premium so one has, at the public's expense, a choice of taking the trolley or driving to work.

The issues are complicated, and we cannot investigate the entire urban transportation/intensity-of-development problem in a single issue of REASON. However, I'd like something a tad more sophisticated than a simple "suburban sprawl, yes; new urbanism, no!"

Fred Bluestone
Lauderdale Lakes, FL

I have nothing against New Urbanism so long as it is voluntary. That means eliminating zoning codes that may require undesirable developments. But it does not mean replacing those codes with even restrictive ones.

—Randal O'Toole

Randal O'Toole replies: Somehow Fred Bluestone thinks that because I oppose mandates for high-density development, I support mandates for low-density development. Meanwhile, Laurence Aurbach Jr. portrays New Urbanism as a voluntary response to today's restrictive zoning codes. If I didn't make it clear in my article, let me say (in agreement with John L. Gann Jr.): I have nothing against New Urbanism so long as it is voluntary. That means eliminating today's zoning codes that may require undesirable developments. But it does not mean replacing those codes with even more restrictive ones. The Congress for the New Urbanism's charter (www.cnu.org/charter.html) calls for many prescriptive and restrictive practices that will increase congestion, pollution, housing costs, and taxes.

Douglas Morris seems to think that "community" follows from "density." That may have been true 100 years ago, but today community follows from mobility. Thanks to the automobile, the telephone, and the Internet, I belong to many communities, almost none of which is strictly geographical. I ask New Urbanists to stop trying to force their limited vision of "community" on me and my neighbors.

Like Prof. Stephen J. Ware, I once believed the myth that autos and highways are subsidized. It turns out that the subsidies are negligible. While gas taxes and other highway user fees are not the best way to run a market, they have paid the vast majority of highway costs in this country.

In the past decade, the average subsidy to auto users works out to less than a tenth of a cent per passenger mile, while the average subsidy to transit is around 40 cents per passenger mile. Air pollution is a problem, but less so every day, as today's ultra-clean cars pollute less in operation than a pre-1970 car polluted when standing still with the ignition turned off.

Peter Samuel's excellent *Toll Roads Newsletter* was the source of some of the most interesting information in my article. But he treads on dangerous ground when he endorses New Urbanist arguments about zoning, emergency services, and walkable communities. New Urbanists don't want to eliminate zoning; they want to make it more restrictive than ever—even at the cost of increased crime and lower emergency response times. As someone who has always walked, bicycled, or taken transit to work, I welcome pedestrian-friendly design, but the true New Urbanist goal is to mandate automobile-hostile design.

I Want My Satellite TV

The government's television grab

By Michael W. Lynch

Bud Smith is all worked up. "I won't go back," he insists. "I'm not about to—in no way, shape, or form—put up a 1950s antenna." And, he promises in an accent that recalls Ross Perot's, "I'm not going to buy into cable. There's a ghost in it and the sound's not good."

Smith lives in Port St. Lucie, Florida, where TV reception is poor and the area's high winds, lightning storms, and corrosive salt air constitute good arguments against erecting a 30-foot antenna over his home. That's why, in 1985, he bought a satellite dish—one of the big ones. As a result, he was able at last to pull down clear programming. Today, Smith pays his satellite company, PrimeTime 24, $17 a month for about 20 stations of his choosing, including network feeds off both the East and West Coasts, A&E, and three Showtimes.

But unless Congress acts soon, the government will take network television from Smith and approximately 2.2 million other people by the end of April. The reason: Smith is bypassing the local network affiliates. The government offers him two options: Buy cable TV or install a TV antenna. But Smith, a retired federal civil servant, thinks his own solution—keeping his satellite dish—is a whole lot better.

Congress and the Federal Communications Commission have long pursued their notions of "the public interest" in broadcasting, requiring plenty of restrictions. The government, for example, sets the price at which program copyright holders must sell to cable and satellite distributors, forces cable systems to carry all local broadcasting, and prevents satellite companies from delivering the same local programming. It's complicated terrain where each interest, except the consumer, has a fief.

There is, however, a small exception for satellite companies that puts them in direct competition with both cable and local TV. Under the 1988 Satellite Home Viewer Act (SHVA), satellite companies, while prohibited from distributing local programming, are allowed to deliver distant network affiliates to people who are unable to receive local, over-the-air network signals and who haven't subscribed to cable in 90 days. But Congress and the FCC never established a precise procedure for determining who was "unserved" by the networks. Satellite companies like Smith's PrimeTime 24 signed up people who claimed they couldn't get good reception, and before long they had more than 2 million customers.

Network affiliates, who have franchise agreements with the networks, consider this unfair. Last July, a Fox station and an NBC affiliate in Florida convinced a federal judge that it was illegal under the SHVA. The judge issued an injunction against PrimeTime 24 that will soon take effect.

At the core of the controversy lies simple protectionism for the broadcast and cable industries. After all, why shouldn't Smith, who used to live in Los Angeles, be able to buy West Coast TV feeds? Why shouldn't my own West Coast godparents, early risers both, be able to get the day's news, weather, sitcoms, and sports on an East Coast schedule, provided the owners of the programming are willing to sell it? And why shouldn't a TV consumer who lives between the two coasts be able to buy whatever she wants, including local affiliate programming, over her satellite?

Why? Because consumers who want to make such choices threaten "the public interest," according to Dennis Wharton, a spokesman for the National Association of Broadcasters. By circumventing the local television cartel (local network affiliates and cable TV), people who make such decisions deprive stations of ad revenue. Such seemingly private harm could precipitate a public calamity, Wharton warns, because local affiliates are the cornerstone of "localism and free over-the-air television." Says Wharton, "For years, the hallmark of American television has been the network-affiliate relationship. If you have 20 to 30 percent of your customers starting to leak off, and they are getting their signals from New York, that is very damaging to the network-affiliate relationship."

But TV viewers don't care. Today, 78 percent of American households buy their television, mostly through cable companies (with whom they have a love-hate relationship). These consumers want more choice, not less. And they aren't likely to stand by while the government protects industry interests at their expense.

PrimeTime 24 informed customers like Smith that, "due to circumstances beyond our control, we must terminate the NBC service you receive." Since then, congressional offices have received thousands of letters and calls of protest.

Smith, like many other satellite subscribers, did two things. First, he wrote to his local network affiliates asking each for a waiver—a signed letter permitting him not to consume their product. The ABC affiliate responded by advising him to "purchase and install an over-the-air antenna," or "purchase a basic 'lifeline' cable service that provides local broadcast." The NBC affiliate had the same advice. Then Smith fired off letters to each federal and state elected official for whom he can cast a vote.

Meanwhile, in Finland, Minnesota, Crystal Peterson managed to secure the necessary waivers only after five weeks of sending letters and making phone calls of her own; she's not going to lose her network television. But after she was quoted on the matter in the local paper, she says the phone started to ring and neighbors started stopping by, wondering how they too could keep their satellite-delivered networks. "They are talking about a lawsuit," says Peterson, who adds that it would be "awesome" to get local network

affiliate programming through her dish, too.

Under fire from angry constituents, members of Congress looked to the FCC to bail them out. The FCC opened a rulemaking procedure on November 17 to establish the standard for what it means to be an "unserved" TV consumer, but the results, released the first week of February, provide Congress with little cover.

The FCC decided that a household is "unserved" if it can't get a "Grade B" signal 50 percent of the time. And a Grade B signal, according to talking points put out by the FCC to assist Congress, "will not guarantee a perfectly clear image, but has been determined to be adequate for home viewing." In reality, this means some households, like Smith's, aren't able to get anything but snow. Says Smith: "That's ridiculous."

Worse for Congress, the FCC concluded that "only Congress can approve local-into-local [i.e., local network television signals provided through the satellite dish in the same service areas as the broadcast signal] legislation or fundamentally change the definition of 'unserved household.' " That ought to keep the angry calls, letters, and e-mails coming.

Even the NAB is back-pedaling under assault from unhappy viewers and unhappier congressmen. "We don't blame the consumer here," says Wharton. "The fact is that they were duped. The consumers were duped into receiving this product thinking it was part of the package they could receive." He does, however, blame the "scofflaw satellite companies." Their strategy, he says, is "let's try to gin up all these customers [they] have hooked up illegally and put the wrath of several hundred thousand or more customers onto Congress and get them to change the law."

Actually, it's not a bad strategy.

When government blocks a new technology or innovative process, more often than not there's no large constituency to argue for the innovation, while there are plenty of vested interests eager to employ the rhetoric of "the public interest" to block it. But denying Americans their choice of something they already have is not a winning idea. Tell them they can no longer buy what they want, and you're in for a fight. A fight is exactly what Congress has.

The NAB's arguments boil down to these: We've fixed the law in our favor and it should never change. Local stations will lose advertising revenue when 20 percent to 30 percent of their customers peel off for clearer pictures, better sound, and better customer service. Without protectionism, NAB warns, Americans won't be able to get local weather and disaster news.

"Say you have an earthquake," Wharton suggests, after I tell him I'm originally from California and he realizes a snow storm example wouldn't work. "Local TV stations are the ones which provide information on breaking weather, emergencies, school closings, and things like that."

Not exactly. I was seven miles from the epicenter of Northern California's 1989 earthquake. I didn't need TV to tell me the ground was shaking, and I discovered that a portion of the Bay Bridge had collapsed and that the World Series game had been canceled from listening to my battery-powered radio. (The electricity tends to go out in a major quake.)

As for the need to get local weather news from local TV, remember Crystal Peterson? Her husband plows the Minnesota snow in the winter for extra income. He certainly needs accurate weather reports. Yet the Petersons happily tossed out their cable for the clarity of satellite TV. Until Crystal can get her local station through her dish, she reports, the radio works just fine for the weather report.

The SHVA is up for reauthorization this year. And come April, cable TV rates will be deregulated, and many in Congress would like to see that industry face some real competition. One solution would be to eliminate everyone's protections.

Cable could be freed from "must carry" regulations, which require local cable systems to transmit every broadcast station within their area, even if that means dumping C-SPAN to offer a fourth home-shopping station; satellites could be liberated from "can't carry" restrictions, which restrict them from providing local stations; and all parties could be urged to come to voluntary agreements over the rates paid to copyright holders. Consumers could pay for what they view, or limit themselves to what local networks provide.

This isn't likely to happen. Far more probable is a solution fashioned by Sen. John McCain (R-Ariz.), who chairs the Senate Commerce Committee, and Orrin Hatch (R-Utah), who chairs the Judiciary Committee. Their solution would permit satellite companies to broadcast "local-to-local" so long as they beamed down all the area's stations, a satellite version of cable's must-carry rules.

The NAB supports this approach. Congress will have to weigh the NAB's argument against Bud Smith's. "There's no reason I shouldn't be able to buy [my networks]," says Smith. "It's my money. I bought the dish. I maintain the dish. I should be able to buy what I want."

According to Wharton, Smith is simply "duped." Maybe Congress will come to a different conclusion.

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CHIP BOK

Reinventing the Border

Will Congress finally reform the INS?

By Daniel W. Sutherland

The country faced a crisis along the southern border. Illegal immigration and drug smuggling were flourishing from San Diego to Brownsville. Commentators argued that "foreign influences" were corrupting the country and demanded severe restrictions on immigration; some called for the commander-in-chief to send in the troops.

After months of study, the president announced a new plan in his State of the Union address. The problem, he argued, was that too many agencies were patrolling the border. Interagency rivalry and inefficiency were rampant, crippling enforcement efforts and wasting scarce tax dollars. It would make more sense to assemble the competing agencies into one lean, professional unit.

The president who delivered that speech was Herbert Hoover; the drug being smuggled was alcohol. After a lengthy fight, Congress rejected his plan.

Seven decades later, lawmakers are considering similar proposals. In the waning days of the last Congress, the Republican leadership slipped into its budget package a plan to break the Immigration and Naturalization Service into two separate agencies, one to provide services to legal immigrants and one to guard the border. Congressional Democrats and the Clinton administration fended off the proposal, but Republican leaders have promised to revive the issue in 1999. The immigration committees on Capitol Hill, recently dominated by contentious philosophic and economic debates, will now spend much more time analyzing blueprints for restructuring the INS and its Border Patrol.

The need for some sort of radical INS reform is increasingly obvious. Since 1992, the INS's annual budget has nearly tripled to nearly $4 billion. It has almost 15,000 more employees than when Clinton took office, with more officers allowed to carry a gun than any other federal law enforcement agency, including the FBI and the DEA. The number of Border Patrol agents has risen from about 3,000 to more than 7,000. The results are less than impressive:

■ In 1996, more than 300,000 people were waiting for the INS to process their citizenship paperwork. Now, more than 1.5 million people are in line. Residents of large cities, such as Chicago and Los Angeles, may wait as long as four years.

■ In 1986, when Congress granted an amnesty to illegal immigrants, 3 million people signed up. Today, there are 5 million illegal immigrants in the United States. In other words, the problem is almost twice as large as when we last tried to wipe the slate clean and start over.

■ According to a 1998 *San Francisco Chronicle* series, the buildup along the southern border has been "largely to no avail." Recent research by Wayne Cornelius and Claudia Smith at the University of California at San Diego suggests that the heightened controls may have simply encouraged illegals to stick around once they get here: "Short-term shuttle migration"—the academic term for working here illegally for a short period and then returning home—may be giving way to more-permanent illegal immigration.

■ Legal immigrants, and the businesses and families that sponsor them, are complaining of increasingly shabby service from the INS. Carl Shusterman, a Los Angeles immigration attorney, recently told the *Los Angeles Times*, "This is the very first time in my 22 years practicing immigration law where the entire system—not just naturalization, but the entire system—seems to be melting down."

■ Violence along the border has skyrocketed, and so have citizen complaints. At one point, the Border Patrol actually asked Congress to stop authorizing money for it until it could adequately train and equip its new hires. (Congress refused.)

Small wonder, then, that a recent House report concluded that the "INS is overwhelmed with the task of handling its responsibilities, resulting in a broken immigration system." Under the circumstances, Congress can hardly avoid re-examining the entire structure of the immigration bureaucracy.

The most modest proposal is the one offered last fall, to divide the INS in two. Some scholars have revived Hoover's idea to merge all the federal law enforcement agencies with responsibilities along the southern border, including the Border Patrol, the Customs Service, the DEA, and the Agriculture Department. Still others propose merging all of the bureaus that facilitate legal immigration, including significant parts of the State and Labor departments, into one in-

Mass Appeal: New citizens being sworn in, Fresno, California, 1996. After decades of debate, reforming the INS may actually happen.

AP / WIDE WORLD PHOTO

dependent agency similar to the Social Security Administration. Some of its duties could even be privatized.

Now two congressmen have taken it upon themselves to shepherd INS reform through Congress. One is Texas Democrat Silvestre Reyes. Before being elected in 1994, Reyes was chief of the Border Patrol sector that includes El Paso. He gained national prominence by creating "Operation Hold the Line," an initiative credited with virtually eliminating the flow of illegal immigrants through that city's business district. In 1997, Reyes drafted a bill to divide the INS in two, much like the Republicans' 1998 proposal. When Reyes speaks of the need to overhaul the agency where he worked for more than 25 years, his colleagues listen.

The other key congressman is Rep. Harold Rogers (R-Ky.), the chair of the subcommittee that appropriates the INS's budget. After nearly 15 years of trying to fix the agency's abysmal financial accounting systems and byzantine organizational chart, Rogers decided enough was enough: "It's just time we admit that this agency just will not work and assign the chores to agencies that have proven records and can be held accountable," he told Marcus Stern of the Copley News Service.

Rogers has been especially frustrated by the INS's ineffectual efforts to "reinvent" itself. The INS has announced major reorganization plans four times this decade, in 1991, 1994, 1997, and 1998. Its problems have remained intractable. "Same people. Same problems. Same shortcomings," Rogers says. It is always dangerous for a federal agency to anger the chairman of the committee that appropriates its funding.

Congressional Democrats now find themselves in a difficult position. Reyes is their most knowledgeable spokesman on immigration issues, and his proposals have a clear Democratic pedigree: The Carter administration pursued a major overhaul of the agency, and in 1990, then-Sen. Alan Cranston (D-Calif.) introduced a sweeping reform bill. On the other hand, Al Gore has been trumpeting his "national performance review" project—his much-heralded effort to reinvent the federal government—as evidence of his suitability for the presidency. Gore has long pointed to the "new INS" as evidence of his project's success and therefore has resisted, and encouraged congressional Democrats to resist, any proposals that would call his past efforts into question.

The Republicans, meanwhile, face a much clearer path, mostly because INS reform is one topic the party's feuding factions can agree on. Prominent Republicans have clashed over California's Proposition 187 (the 1994 initiative prohibiting illegal immigrants from receiving government services, including education and medical care), over welfare benefits for legal immigrants, over proposals for a national ID card, and over the number of foreign workers Silicon Valley should be allowed to import. Pat Buchanan and Pete Wilson have traded barbs with Bill Bennett and Jack Kemp. Lamar Smith of Texas chairs the House Immigration Subcommittee, and Spencer Abraham of Michigan holds the Senate's equivalent post; both are conservative Republicans, but their views on immigration are diametrically opposed. Yet there's one thing they all agree on: The INS is a costly disaster.

Furthermore, party leaders think INS reform could be a winning issue with Hispanic voters. Nearly every Latino with a relative, neighbor, or business associate who has recently immigrated can relate an INS horror story. The Border Patrol is particularly hated. Because Hispanics have recently voted against the GOP by large majorities, many Republicans are eager to develop proposals that would appeal to Latino voters. INS reform may be one such proposal.

Since President Hoover announced his plan in 1929, more than two dozen congressional committees, blue-ribbon commissions, and executive agencies have made similar recommendations. Each time, entrenched interests derailed reform. Given recent developments, some sort of change may finally be on the way. If nothing else, one of the government's poorest-performing agencies will finally receive serious public scrutiny. And that, in itself, is reason to cheer.

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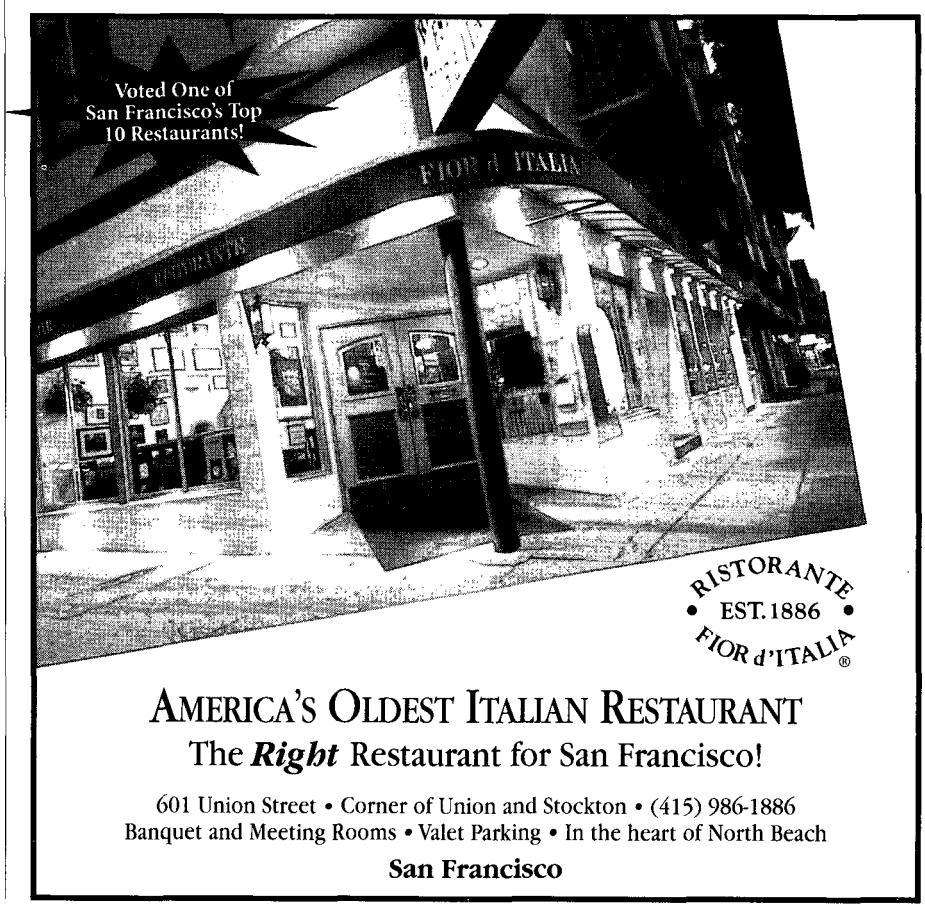

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A Woburn FAQ

On *A Civil Action*, skepticism is overdue.

By Walter Olson

"Lawyer Errs on the Side of Angels": That's the newsy headline atop Janet Maslin's *New York Times* review of *A Civil Action*, the Hollywood release, based on the book by Jonathan Harr, in which attorney Jan Schlichtmann sues two large corporations on behalf of leukemia-stricken children in Woburn, Massachusetts. "Fighting the good fight," reads a nearby photo caption. Maslin describes the children as "casualties of a poisoned river," though the real-world legal proceedings never reached the issue of whether they were in fact casualties of anything.

Already a best-selling book, *A Civil Action* is now moving into the curriculum, which means captive schoolchildren are going to spend a lot of time watching John Travolta and being exposed to what *Boston Globe* columnist Alex Beam describes as the "unmistakable message of the movie and, to a lesser extent, the book": "Big corporations poured poison into the drinking water of a tiny, woe-begotten town, killed children," and "got away with it" because of our defective civil justice system. *Salon* reviewer Charles Taylor has even charged the movie with being too evenhanded, making it look as if there were somehow two sides to the story when in fact the corporate defendants were "demonstrably guilty," the evidence against them "overwhelming."

But in reality, writes the *Globe*'s Beam, "Everyone familiar with the Woburn trial knows that Schlichtmann had a terribly weak case." Here's a primer on why, to bring to class and startle your teacher with:

Q: What did the jury decide?

A: First, it ruled that Beatrice Foods was not responsible for polluting the wells, rejecting Schlichtmann's case outright. Second, it ruled that W. R. Grace had contributed to the wells' contamination beginning in September 1973. This second ruling was much less helpful to Schlichtmann than it may appear, since the date was midway through the leukemia "cluster" that gave rise to the suit. It's not easy to pin your epidemic on Typhoid Mary if she arrived in town well after the outbreak started.

Grace ponied up $8 million to settle, which meant the case never proceeded to its next phase, in which the jury would have considered whether the company's contribution to the wells' contamination had actually caused the leukemia and other illnesses. On the Beatrice side, it emerged that employees of the company had withheld from Schlichtmann an old geology report that he argued would have helped his case. This led to years of further litigation, culminating in a fairly thorough defeat for Schlichtmann, basically on the grounds that the report would not have saved his case no matter when he obtained it.

Already a best-selling book, *A Civil Action* is now moving into the curriculum. But, says the *Boston Globe*'s Alex Beam, "Everyone familiar with the...trial knows that the plaintiff had a terribly weak case." Here's a primer on why, to startle your teacher with.

Q: Schlichtmann claims this was because the judge in the case, Walter Skinner, was biased against him. Is that true?

A: Not many others on the scene agree. The U.S. Court of Appeals for the 1st Circuit upheld Skinner on all but one transitory issue; its final denial of rehearing was signed by then–Chief Judge Stephen Breyer, later named by President Clinton to the Supreme Court and considered nobody's stooge. Harr now says he was "distressed" to learn that Skinner came off as a villain to readers of his book: "He's a good judge and a smart man," he told Alex Beam, "and he's a credit to federal judges."

Q: What about Schlichtmann's other complaints that the judge was picking on him? *Time* says it was a "questionable ruling" for Skinner to have divided the trial into stages.

A: Such divisions are routine in tort litigation. They save the participants the expense of preparing for full-dress trial on later issues if a case may lose on preliminary grounds. Schlichtmann wanted to skip past the tiresome questions of who polluted what and get straight to putting client families on the stand to testify about the anguish of losing a child. Either he was banking on the emotional appeal, or he imagined the family testimony would somehow help resolve the hydrogeology issues.

Q: How did Schlichtmann manage to lose the contamination case against Beatrice, when its tannery was relatively near the wells and there was evidence of pollution on its land?

A: Two tactical decisions undercut his chances. The first was to fix on the theory that the cause of the leukemia cluster in east Woburn was trichloroethylene (TCE) and related industrial solvents. The second was to propose models of water flow that the jury correctly dismissed as incredible.

The TCE theory fit the headlines of the case, since it was the finding of solvents in the wells that led to their emergency closure. But as reporter Dan Kennedy, who covered the trial and aftermath for the Woburn newspaper and the *Boston Phoenix*, observes, Schlichtmann "had no evidence that the tannery had ever used" TCE. Nor was he ever able to come up with such evidence. Rather an important gap to leave in one's case, no?

Entangling himself further, Schlicht-

mann proceeded to call an expert witness who claimed that the wells, though alongside the heavily polluted Aberjona River, drew none of their water from that river. This was mighty convenient for his case, since it diverted attention from the likelihood that the many dumpers or polluters to be found upstream had something to do with the wells' contents. But it had the disadvantage of being false: As the U.S. Geological Survey soon established, nearly half the water in the wells came from the Aberjona. And the argument painted Schlichtmann into a hopeless corner regarding Beatrice, whose tannery was *across* the river from the wells, which meant the runoff from its land would hit the river before it got to the wells.

The jury, and virtually everyone else, rejected Schlichtmann's better-than-nothing theory that the never-seen TCE (which, it will be recalled, there was no evidence the company ever used or dumped) sank down under the Beatrice property, passed under the river without intermingling in any way with its waters, then came back up to taint the wells. No wonder Kennedy concludes that "the case against Beatrice had nothing to do with justice."

Q: The case against Grace was stronger, then?

A: Marginally so, but it still had plenty of problems. To begin with, TCE had not and still hasn't been found to cause leukemia, and fears of such a linkage have lessened since the trial. Furthermore, the concentrations of TCE in the well water were far below the levels that would cause the wide range of other health effects alleged (which included such common complaints as "rashes, sore throats, and chronic earaches" in children). Finally, the amounts of TCE used for metal cleaning in Grace's machine shop were not large.

Q: Meaning that?

A: Had the trial continued, Grace would have had a chance to call attention to the numerous other local sources of pollution. One was an industrial dry cleaner—a type of business that, unlike Grace's machine shop, uses solvents in large quantities—which was located closer to the wells than Grace but had already paid a settlement to be let out of the case. Other nearby businesses included an auto junkyard and what Harr describes as "a

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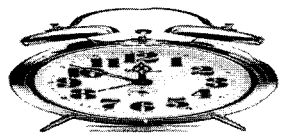

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refurbisher of used 55-gallon drums and underground oil tanks" from whose lot a visitor "could smell a strong chemical odor." "Midnight dumping" was also a problem in the blighted area, and indeed had fouled part of Beatrice's land with wastes which it was clear had not come from its own operations.

Q: How did Schlichtmann fix on Grace and Beatrice as the culprits?

A: Not for lack of other suspects. Between tanneries and insecticide plants, Woburn was a veritable showcase of environmental disamenity, featuring arsenic, chromium, and other heavy metals as well as discarded heaps of animal parts from old tanneries. But many of the businesses responsible were small, defunct, or locally owned, and most questions of who dumped what had been hopelessly obscured by the passage of time. Also left unsued was Woburn's town government, almost certainly the most negligent party in sight: It had sunk the wells despite a vigorously worded engineering report saying the ground water was far too polluted to drink. After all, who wanted their taxes to go up if the city were made to pay a judgment?

Q: How solid was the Woburn leukemia cluster?

A: As recent press coverage has pointed out, big scares over purported residential clusters of cancers and other noncontagious ailments generally do not pan out when subjected to scientific analysis. See, for example, the articles by Atul Gawande in the February 8 *New Yorker* ("The Cancer-Cluster Myth") and by Gina Kolata in the January 31 *New York Times.* (Incidentally, why isn't the press more upset about the smear campaign against Kolata? Since she exposed the flimsy scientific basis of the breast implant litigation in the *Times*, a P.R. firm for trial lawyers has been sending out press kits attacking her, and several hatchet jobs have resulted in publications such as the *Columbia Journalism Review*, *The Nation*, and *Brill's Content.* How many other journalists would be willing to take on the litigation lobby if such intimidation campaigns came to be accepted as normal?)

The Woburn cluster was more impressive than most; some respectable sources found that it reached the realm of beyond-chance distributions, while others disagreed. To judge from Harr's book, it was so close to the border line that a recalculation of the town's population figures was enough to make it statistically significant. (Schlichtmann is now working on a case in Toms River, New Jersey, involving childhood cancers that occurred at a rate 30 percent higher than would be expected by chance—not an impressive figure in a small population.) On the broader point, we've had decades in which to look for a pattern of higher childhood leukemia rates in places where chemicals are manufactured. If such a pattern were there, you would have heard about it, but it isn't: Childhood leukemia occurs broadly and evenly across many populations.

Some otherwise sensible libertarians have been strangely tempted by the "invisible fist" theory that depicts litigation as somehow optimal in its outcomes. But the Woburn litigation was a disaster for nearly everyone who came near it; an abundance of legal process is no guarantee of either efficiency or justice.

Q: Why do so many readers and reviewers misunderstand the facts of the case?

A: One reason is the way the book is set up. Harr trailed Schlichtmann around like Johnson's Boswell, recording his every gripe and speculation. He interviewed the defense lawyers after the fact, and the judge not at all. The result, though full of illuminating detail about what it's like to live through a lawsuit, is also comically one-sided, making little effort to develop defense arguments at any greater length than is needed for Schlichtmann to come up with his response.

Q: So Harr is a fiendishly clever advocate for the enviros and trial lawyers?

A: No. Part of the book's charm is that he's too disorganized, or too honest, or too something, to stack the deck with any efficiency. The careful reader will notice that he keeps recording little details that a simple partisan for the plaintiffs' side would have taken pains to omit, from the scene on page 219 where Schlichtmann is shown coaching his medical experts—the first few experts he tried had turned him down, telling him he had no case—to the passage on page 417 where, very late in the proceedings, Schlichtmann's law partner is depicted as having no idea whether his side has a scientific case or not on the question of whether the chemicals had caused illness. Harr seldom makes anything of these details, but they're in there.

Q: Any parting lessons?

A: Some otherwise sensible libertarians have been strangely tempted by the "invisible fist" theory that depicts litigation as somehow optimal in its outcomes: The more cases judges decide, supposedly, the more perfectly costs will be internalized and the better off the rest of us will be. This was not in fact the view of judges in the now-idealized heyday of the common law. Despite Harr's shaky grasp of the scientific issues raised by the case, he does get one big lesson right: The Woburn litigation was a disaster for nearly everyone who came near it; an abundance of legal process is no guarantee of either efficiency or justice. For those whose reflexive answer to all spillover problems is "let the common law take care of it," it's at least something to think about.

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Wandering in the Wilderness

By Jesse Walker

An Empire Wilderness: Travels into America's Future, by Robert Kaplan, New York: Random House, 393 pages, $27.50

Robert Kaplan appreciates that history is a messy business in which weird accidents abound and every event has at least 50 causes. He also realizes that the most important historical trends don't take place in Washington and that most of them haven't shown up yet on network TV. It is "mundane, gradual changes, so easily overlooked," he writes, "that shape the future." Not big events or big ideas, but incremental, often unplanned processes.

That insight is one strength of *An Empire Wilderness*, Kaplan's impressionistic account of his journeys through the American West. Kaplan, a contributing editor at *The Atlantic Monthly*, travels to the decaying ghettos of the Midwest, the prosperous edge cities of Southern California, the rough-edged towns of central and northern Mexico, the sparsely populated (and rapidly Mexifying) Southwest, the equally sparse (and rapidly emptying) Great Plains, and, finally, the lush Northwest, the area he finds most promising. He concludes that the nation is on the edge of dissolution: that regional and professional loyalties are overwhelming the national idea, turning us into "an empire...a subtle, ambiguous one of geographically determined, loosely connected posturban forms; a dry-land version of city-state Greece, in which ruthless economic competition replaces ancient wars."

The new America is both localist and cosmopolitan, Kaplan suggests: We've reached a day when businesses in Omaha deal directly with enterprises in Tokyo and St. Petersburg, while federal and state governments find themselves increasingly out of the loop. Washington, D.C., he predicts, will be reduced to "imperial oversight," providing a "protective shield" against terrorists, natural disasters, and little else. As Mexico and Canada dissolve as well, he continues, North America will evolve into a patchwork of smaller authorities, some prosperous and some dirt poor.

Kaplan isn't entirely happy with this vision, but he doesn't think it can be reversed and he isn't sure it ought to be. "While we insist upon the illusion of a permanent continental nation that has existed less than a third as long as the Moorish occupation of Spain," he writes, "we may find that we have become instead the creators of its diluted successor, which may be the most we can hope for." In its fatalism, this book steadfastly refuses to turn into a policy wonk's bible. That, too, is a strength.

AP / WIDE WORLD PHOTO

Cathedral of Commerce: In a local shrine in Culiacán, Mexico, a boy shows his drawing of Jesús Malverde, the "Big Narco Saint" to whom drug lords and locals pray for good fortune. *Empire Wilderness* author Robert Kaplan is impressed with the authenticity of the place.

The book's biggest weakness is its author's prejudices. Put bluntly, Kaplan doesn't like poor people. He frets about them, yes, and he thinks society should do more for them. But he neither understands nor respects them, and he regards them with a barely masked contempt. He is obsessed with their girth: I lost count of how many times he described one or another as "grossly overweight." He also has an eye for bad complexions and untidy homes. In the Great Plains, he declares that the poor people's houses "needed paint," as though the tenants might not have priorities more pressing than keeping their outer walls spic and span; he also notes the appliances that "littered" their yards, apparently unaware that this is not slovenliness but economic sense. (The so-called litter will undoubtedly be stripped and recycled.) Throw in his horrified descriptions (secondhand, of course) of trailer park life, and a vivid picture emerges: Poor people are fat, pimply proles with junk in their yards, living for crack and cable TV.

In Mexico, oddly, this bigotry fades. In Culiacán, Kaplan visits a popular shrine to

Jesús Malverde, the "Big Narco Saint," where drug lords stop to pray for good fortune. "As crass and brutal as the shrine was," he writes, "it was *real*: the poor had built it with their own hands from scraps of junk, without planning or authorization from the authorities, and now they were filling it with their emotions. It was a true holy place." Could this be the same writer who, driving through U.S. bayou country, complains about "a monotony of bait shops, pawnshops, and junkyards with faded stenciled signs"? (I've driven through the same landscape and found it anything but monotonous.)

And it is in Mexico that, for once, Kaplan finds a poor person physically attractive. "Isn't Mexico a great country!" he then writes, quoting with approval a U.S. businessman. "Even the poor women are beautiful!"

Thankfully, not all of Kaplan's biases are set in stone. He understands that the land he's visiting is a work in progress, and, in that spirit, he's not afraid to let his opinions evolve.

Early in the book, he travels to St. Louis, on the assumption that, as the definitively average city, it will in some way reflect America as a whole. In an odd way, it does. "What I discovered," he writes, "is that St. Louis no longer exists. After days spent looking for it, I never quite found it." The St. Louis metropolitan region, which included only five incorporated towns in 1876, today contains 92, some of them minuscule. One, a wealthy township called Country Life Acres, consists of a single street and a handful of citizens.

Initially, Kaplan bemoans this situation. To him, the tiny towns are just a form of segregation, a way the rich and white can escape the presence and problems of the poor and black. Then he discovers that a third of the area's incorporated townships are African-American. Evidently, it is not just the well-heeled Caucasians of Country Life Acres who prefer political autonomy. Furthermore, "There is substantial black resistance...to the black-dominated city of St. Louis rejoining the wealthier, white-dominated St. Louis County, because blacks do not want to lose political influence even if they might benefit financially. Like it or not, the record is clear: on a local level, blacks want to govern themselves."

This resigned realism appears in other contexts, too, most notably the drug war. "Only when I was several hundred miles north of the border did people talk about the war on drugs as a serious endeavor," he writes. And, sounding even more radical, "The conventional wisdom in southern Arizona is that *drugs are the substitute economy that helped Mexico survive the 1994–95 peso crisis without violence*" (emphasis in original).

That is not Kaplan's only surprising observation. He goes to Orange County expecting to hate it; instead, he "came away respecting it, more stimulated than I had been by many 'exotic' and 'romantic' cities that I had seen throughout the world." It is, he decides, cosmopolitan and prosperous, a new sort of landscape that is neither traditionally urban nor traditionally suburban. (It is also, he notes, less congested than stereotypes suggest: The average commute time is a mere 15 minutes.)

Kaplan doesn't like poor people. He frets about them, yes, and he thinks society should do more for them. But he neither understands nor respects them, and he regards them with a barely masked contempt.

Similarly, while visiting Vancouver, Kaplan admits that the dense and lively urban life he enjoys there has less to do with what the city government has done than with what it hasn't. After Eisenhower created the Interstate Highway System in 1956, Vancouver was invaded by consultants clutching plans for new freeways and tunnels. The Canadians rejected the outsiders' advice, deciding they'd rather not rip out their city's urban core.

Kaplan also notes that "Vancouver is governed less like a traditional city and more like an Orange County–style urban confederation." It actually consists of 20 separate municipalities, which together elect a regional council.

None of this shatters Kaplan's views, but it does shake them; and he bears these experiences in mind when he visits Portland, Oregon, a heavily regulated city. He likes the town, but he's also wary about it: "The very temporariness of American civilization...as indicated by the Bransons and Tucsons and Albuquerques and Orange Counties, with their overnight theater-prop development, is the image of our dynamism. Portland may be beautiful with its architectural accumulation and civility, but too many Portlands, too tightly held, might stultify us."

Kaplan's book begins and ends on military ground. It starts in Fort Leavenworth, Kansas, an army base and war college. It concludes on the battlefields of Vicksburg, Mississippi, which Kaplan visits with 54 officers from Fort Leavenworth. His observations illustrate his ideas about the American future while reminding the reader of his social biases.

Kaplan sees a military rapidly hardening into a specialized caste. The demands of high-tech warfare have transformed the commanders' work, he reports: "The draft has become obsolete," an officer tells him, "because of the way warfare is changing. War has become so technological that it takes too long to train people who will serve for only a year or two." Those who have mastered these specialized skills learn to speak an equally specialized jargon. They live in settlements isolated from the coastal cities favored by other elites, and, in subtler ways, from the inland communities that surround their bases.

They are, in short, another subculture in a splintering country. But this subculture derives its identity, its sense of self, from its loyalty to an unfragmented American nation, however abstract that allegiance may have become. Its mission is evolving, away from what Kaplan pretentiously calls "the Homeric age of the Civil War, World War II, and the Cold War" and toward "the role of first among equals in a lean and mobile global strike force, in which blood-and-soil traditions have all but vanished." But this shift is frustrating for the soldiers. To judge from Kaplan's account, a defensive super-nationalism may be taking hold among them, even as

their attachment to the actual nation fades.

When Kaplan speaks to these officers about the future of warfare, the prevailing vision involves a host of small missions around the globe: rescue operations, civil disturbances, battles against urban guerrillas. An alarming number of them see the military turning its attention inward, doing the same things here it does in Bosnia. Many even feel that the Posse Comitatus Act, which prohibits using the military as a domestic police force, should be repealed.

This raises the specter not of dissolution but of centralization. It's one thing for the professional classes to live separately from the rest of America; it's quite another for them to have so much power over everyone else, particularly people they neither like nor understand. Kaplan's aforementioned prejudices are at play in rural areas, where yuppie newcomers try to prohibit poor people from keeping couches on their porches or cars on their lawns. They are at play in urban areas, where planners try to rip out and redo whole neighborhoods that don't fit their vision. They are at play in the suburbs, where self-proclaimed "regionalists" are trying to squelch the independence of mini-townships like those around St. Louis.

And they are at play in the military. Near Vicksburg, in Tunica County, Kaplan and some soldiers enter a casino. There they observe the teeming mass of gamblers, whom Kaplan describes with his usual eye for the intersection between poverty and ugliness.

"And we risk our life for this," a major comments sourly. "Kind of makes you go warm and fuzzy inside." ◆

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Government Greed

By David R. Henderson

The Greedy Hand: How Taxes Drive Honest Americans Crazy and What To Do About It, by Amity Shlaes, New York: Random House, 240 pages, $24.00

"The father of the modern American state was a pipe-puffing executive at R.H. Macy & Co. named Beardsley Ruml." Thus opens Amity Shlaes' new book, *The Greedy Hand.* Shlaes is an editor at *The Wall Street Journal,* where she writes many excellent unsigned editorials about the absurdities, inefficiencies, and injustices of taxes. Her book shows, often dramatically, how the tax apparatus "pervades, dampens and makes knots of our lives" in our roles as workers, shoppers, investors, spouses, and parents. She discusses income taxes, Social Security taxes, sales taxes, property taxes, and estate taxes—in short, all the major taxes except the tax on corporate income. Along the way, she dispenses valuable nuggets of information about the tax system: its origins, its rationale, and some of its most twisted features.

Take tax withholding, whereby employers deduct from our gross pay an estimate of the federal and state income taxes we owe. Before 1943, there was no withholding; people just paid their annual taxes every March 15. But President Franklin Roosevelt and Congress dramatically increased tax rates in 1942, months after America entered World War II, and the new rates hit tens of millions of Americans who had never before paid federal income taxes. That, Shlaes writes, is when the "class tax" became a "mass tax."

There was one little problem. A Gallup poll showed that only 5 million of the 34 million people subject to the tax were saving to make their annual payment in March 1943. As March 15 approached, Treasury Secretary Henry Morgenthau fretted, "Suppose we have to go out and arrest five million people?"

Enter Beardsley Ruml, chairman of the Federal Reserve Bank of New York and an adviser to the president. While treasurer at Macy's, Ruml had noticed that customers didn't like big bills, preferring to pay in installments. So he proposed that employers deduct estimated taxes from workers' paychecks. The government accepted his proposal and added a sweetener: Taxpayers were granted amnesty on 75 percent of the lower of their 1942 and 1943 liabilities. So was born withholding, which Shlaes calls "the most ambitious bait-and-switch plan in America's history."

Withholding, writes Shlaes, is what allows the government to be so big. She has a point. It's hard to imagine someone earning, say, $50,000 and accepting this much government if, instead of paying $500 out of each month's paycheck, he had to pony up $6,000 in one lump sum just for federal income taxes.

One minor villain in the withholding episode, incidentally, was Nobel laureate Milton Friedman, at the time a 30-year-old Treasury Department economist. Friedman now agrees that withholding set the stage for today's big government: In *Two Lucky People,* the memoir he co-authored with his wife, Rose, he candidly states that he "was helping to develop machinery that would make possible a government that I would come to criticize severely as too large, too intrusive, too destructive of freedom."

Shlaes also writes thoughtfully about the Social Security tax. "For younger people," she notes, "the central tax is not income tax, it is FICA, which looms on their paycheck stubs like a *Tyrannosaurus rex.* To them Social Security is a job tax, indeed *the* job tax, the major tax fact of the first decade of their career life" (emphasis in original).

Shlaes quotes from a pamphlet published in 1936 by the newly formed Social Security Board. After explaining that employer and employee would each pay three cents of every dollar of the employee's earnings, up to $3,000, the pamphlet stated, "That is the most you will ever have to pay." Of course, this was utterly false. As Shlaes points out, the Social Security and Medicare taxes for each are now 7.65 percent for employer and employee on income up to about $70,000. The Social Security part alone is 5.3 percent for each.

The pamphlet also stated that "the check will come to you as your right." Unfortunately, though Shlaes quotes this statement, she doesn't challenge it. Yet in the 1960 case *Flemming v. Nestor,* the Su-

preme Court found that Social Security is not a legal right. Either of the board's two falsehoods, if made by a private pension fund, would have subjected it to a lawsuit.

Because the vast majority of FICA revenue goes to current recipients of benefits, many critics of Social Security, including me, have likened it to a Ponzi scheme. According to Shlaes, Larry Dewitt—the Social Security Administration's official historian—actually devoted part of the SSA's Web page to distinguishing one from the other. (The SSA, Dewitt informs me, has since removed his analysis.) Dewitt explained that Charles Ponzi lured investors with promises of 50 percent returns on foreign postal coupons. In fact, investors were being paid their returns out of the inflows from later investors. Ponzi's scam, in short, was a pyramid scheme.

"I PRONOUNCE YOU HUSBAND AND WIFE. YOU MAY KISS THE BRIDE AND PAY THE TAXMAN."

So far, that sounds a lot like Social Security. The difference, argued Dewitt, is that Ponzi's swindle was a geometric progression that "works only so long as there is an ever-increasing number of new investors coming into the scheme." Social Security, by contrast, is a simple arithmetic progression that "is sustainable forever, provided that the number of new people entering the system maintains a rough balance with the number of people collecting from the system."

Hmm. As Shlaes points out, demography and the economy have not cooperated with Dewitt's plan. Moreover, even the system's planners knew, as early as the 1950s, that without big tax increases or benefit cuts the baby boom would bankrupt the system. So, by Dewitt's own definition, Social Security *is* a Ponzi scheme. Shlaes' book does a real service in bringing the moral and intellectual bankruptcy of this Social Security apologist out into the open.

Shlaes also notes that the earnings penalty for Social Security beneficiaries under age 70 imposes a huge tax on incremental dollars earned by the youngest and mostable seniors. In 1996, 65-to-69-year-olds who earned more than $11,520 a year lost one dollar in benefits for every three dollars earned, a marginal tax rate of 33 percent. Americans aged 62 to 64 lost one dollar in benefits for every *two* dollars earned, a whopping 50 percent marginal tax rate. And that's before counting regular income taxes.

Moreover, Shlaes notes, for elderly people over a certain income level, 85 percent of their Social Security benefits are subject to income taxation. In fact, as I showed in an article in *Fortune* (March 4, 1996), when you put all these taxes together, the marginal tax rate on dollars earned from working is often more than 80 percent and could be more than 103 percent. "The overall effect," writes Shlaes, "is to send a clear message: 'Don't work.'"

The earnings penalty was imposed when Social Security began, because FDR's brain trust thought that the Depression was caused by "too much labor." "So they intentionally idled seniors," Shlaes writes.

Shlaes also shows how our graduated income tax system, in which marginal rates rise with income, imposes an often large penalty when two earners get married. She leads off with a story of two blue-collar workers in Indiana named Darryl Pierce and Sharon Mallory. "They duly did what many couples in America now do when they consider a serious question like matrimony," she writes. "They went to their accountant." The swing in their tax liability, they learned, would be $3,700 a year.

Shlaes' story of how the marriage penalty developed over about 50 years is detailed and well worth reading. She sums up the quandary as follows: "You could have progressivity [higher tax rates on higher incomes], you could have low rates for the second earner, and you could have a tax arrangement that buttressed the traditional family. But you could not have all three. When you treated married women who worked as individuals, you gave them and their husbands a tax advantage over traditional couples—at least as long as there was progressivity. And when you buttressed the tax supports for married couples with a stay-at-home wife while retaining progressivity, you punished couples with working wives." Because President Clinton and most Democrats opposed reducing "progressivity" and social conservatives in the Republican Party wanted to help "the family," the mid-1990s, by default, became an era of loophole writing.

My major disappointment with the book, incidentally, is with Shlaes' failure to challenge the word "progressivity." Shlaes seems not to have learned the lesson taught by George Orwell and Thomas Szasz: Words affect the way we think about things. "Progressivity" sounds, well, so progressive. It's not.

To her credit, Shlaes attacks the idea of higher tax rates for higher-income people. She quotes George Harrison's 1966 song "Taxman," written shortly after the Beatles' success put them into Britain's highest tax bracket. Shlaes doesn't mention it, but the top British tax rate on "earned" income at the time was 83 percent, and the top rate on income from dividends and interest was 98 percent. The Beatles were shocked to be paying such taxes; thus the song, which, she notes, makes specific references to the tax collectors, Prime Minister Wilson and Prime Minister–to-be Heath.

HENRY PAYNE

(Margaret Thatcher later cut the top rates to 40 percent.)

As Shlaes writes, "We are all Beatles now." Even those of us who are modestly successful—earning, say, $80,000 in a high-tax state like New York or California—are paying marginal tax rates somewhere between 40 percent and 50 percent. The stated purpose of "progressive" taxation, writes Shlaes, is to tax the rich. But high marginal tax rates, she notes, aren't really taxes on the wealthy; they're taxes on *becoming* wealthy.

Shlaes, by the way, buys into the idea that super-rich people such as Leona Helmsley don't pay taxes. This is false: Even if Helmsley was guilty of defrauding the government from 1983 to 1985—and economist Paul Craig Roberts has presented powerful evidence suggesting that Helmsley's accountants, not she, were the actual frauds ("Leona May be Guilty, but Not as Charged," *Wall Street Journal*, April 9, 1992)—the Helmsleys paid $53.7 million in federal taxes on adjusted gross income of $103.6 million, rather than the $55.4 million the government claimed they owed. In other words, the feds are very successful at taxing the rich, too.

The stated purpose of "progressive" taxation, writes Shlaes, is to tax the rich. But high marginal tax rates, she notes, aren't really taxes on the wealthy; they're taxes on *becoming* wealthy.

The only chapter I found unpersuasive is "Baby Taxes." In it, Shlaes shows how burdensome the government's tax and regulatory requirements are for those who hire nannies. That's presumably why President Clinton's first choice for attorney general, Zoe Baird, paid an immigrant off the books for providing day care.

So far, so good. Then Shlaes cites a statistic: Even after all the publicity about Baird, the IRS recently reported that only one in 13 taxpayers who owe "nanny taxes" actually pays them. This upsets Shlaes. I sympathize with her, because I too value honesty and hate the fact that, as Will Rogers once put it, taxes have made more liars than golf.

But there's another way to look at this. There was a saying in the late 19th century West: "A man who won't cheat a railroad ain't honest." At the time, the government gave many railroads special privileges. Cheating them—breaking the oppressive law of the day—became the moral thing to do. The same principle applies today. How many teenage babysitters or newspaper delivery boys do you know who pay taxes on their income? I had both jobs as a kid and would have been shocked had someone told me I was legally liable for taxes.

One of the ways the most oppressive laws get changed, as Milton Friedman wrote in the mid-1960s, is for people to ignore and break them. So only one in 13 people actually pays the nanny tax? That may be one of the most hopeful statistics in this book.

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More for Less

By Michael Fumento

Myths of Rich and Poor: Why We're Better Off than We Think, by W. Michael Cox and Richard Alm, New York: Basic Books, 248 pages, $25.00

With the stock market booming, the federal budget in the black (at least if you count Social Security receipts), and inflation crawling along in the basement, you'd think the last thing we'd need is a good-news book about Americans' economic position, right? Wrong.

First, the bad news business is always booming, as shown by such recent books as George Soros' *The Crisis of Global Capitalism* (1998) and *Stock Market Crashes of 1998 and 1999* (1997), brought to you by the same prescient author who penned *The Great Depression of 1990*, Ravi Batra. (If there were a mutual fund for bad-news products and services, I'd plow my life savings into it.) Second, to many people good times are scary and bad times are almost reassuring. After all, the higher you go, the more it hurts when you fall.

So now is as good a time as any for *Myths of Rich and Poor*, by Federal Reserve Bank of Dallas Chief Economist W. Michael Cox and *Dallas Morning News* reporter Richard Alm. This book is a fascinating eyeopener that somehow manages to shoot out numbers like a submachine gun and yet keep you thoroughly engrossed. (Early versions of some of Cox and Alm's research have appeared in REASON. See "Buying Time," August/September 1998 and "The Good Old Days Are Now," December 1995.)

Does the book claim this bull market will go on forever? Obviously it cannot. Will inflation always be this low? That's up to us, but probably not. Will the budget remain in the black? Not if the Democrats can help it. Not if the Republicans can help it, either.

Cox and Alm do not focus on such questions. Rather, they take a long view—usually going back to 1970, often to 1900 or earlier—and point out that, despite myriad ups and downs, and despite the doomsayers who come and go, in the ways that really count Americans keep improving their lot. And there's probably not a damned thing President Clinton or Congress can do about it.

Cox and Alm start out with 10 myths that are widely accepted by Americans, especially in the news media. These include:

- Americans' living standards have been falling since the early 1970s.
- We're working more, and there's never enough time to enjoy life.
- Women and minorities are falling further behind.
- The United States is falling behind in the race for economic supremacy.

By the time they are done, Cox and Alm have sent each myth spiraling to earth with a thick stream of smoke trailing out the back end. "In each and every instance," they note, these statements "are not just wrong [but] spectacularly wrong."

The kernel of truth at the heart of the first myth is that the hourly wage, adjusted for inflation, has fallen nearly 15 percent since 1973. The answer: So what? The only measure that truly counts is what we can buy for the amount of time we spend working. In those terms, prices on the whole have been and continue to be steeply declining. "The statistics on consumption—the most direct measure of Americans' well-being—point to a nation that's better off now than at any other time in its history," contend Cox and Alm.

A half-gallon of milk cost the average worker 10 minutes of labor in 1970, 8.7 minutes in 1980, and only seven minutes in 1997 the latest year for which data are available. A gallon of gasoline cost 11 minutes in 1950 and now goes for less than half that. But these declines are nothing compared to some price drops. A scratchy-sounding three-minute coast-to-coast phone call cost an incredible 90 hours of work back in 1910; today it costs less than two minutes of work time. A hundred kilowatt-hours of electricity, which cost a shocking 107 hours of worker time in 1900, cost a bit over an hour by 1960; today the cost is less than 45 minutes.

"A typical American at the turn of the century spent $76 out of every $100 on food, clothing, and shelter," Cox and Alm write. "By the 1990s, this portion had fallen to $37 of every $100." Just since the 1970s, food and beverage costs have fallen from over 19 percent to about 15 percent, notwithstanding that we're eating out and bringing home preprepared food more.

There are seeming exceptions, but the usual explanation is that what you're paying more for is better than it used to be. Thus, the average house at first seems to cost considerably more work hours today than in 1970. But factor in the increased size of homes, and they cost just 10 percent more. Now factor in lower mortgage rates, and depending on the size of the down payment, houses built today are cheaper. And we still haven't accounted for improvements such as central heating, air conditioning, kitchen appliances, extra bathrooms, garages, better insulation, and the elimination of lead in pipes and paint.

Likewise, cars at first seem to cost about the same number of work hours as they did in the 1970s. But they now are far safer, pollute much less, and are loaded with standard goodies like high-quality stereos that weren't even available as options in 1970. To make the point, I offer but three words: "eight-track tape players." (Shudder!)

Anything with a high labor component is likely to have declined less in price. On the other hand, the prices of products with a small labor component, such as computers, have sunk faster. This tendency helps explain the most glaring exception to the general rule: college tuition. It's difficult to argue college students are getting more for their money than formerly. But in great part, tuition reflects wage increases for instructors and administrators, probably along with the perverse effect of rising government aid, which allows schools to get away with raising tuition costs, which in turn leads to even higher levels of government aid.

Conspicuous by its absence in this book is any analysis of health care costs. There seems little doubt that, like tuition, health care is taking up a greater number of wage hours, but how much we are not informed. Surely comparing health care now to that in the 1970s is not as easy as discussing improvements in TVs or VCRs, yet one wishes the authors had tried. They do provide data that suggest we are getting more and more out of health care, noting huge improvements in areas such as life expectancy, infant mortality, organ transplants performed, and survival time after such transplants. And while complaining about our health will always be a favorite national pastime, it's interesting to learn that the number of us rating our health as "fair or poor" has fallen from 12.2 percent in 1975 to 9.6 percent in 1994, even as the population has aged.

With few exceptions, the data are truly encouraging. Every year, we're able to buy more with our work or, conversely, work less for the same products. True, this may lead to more crass materialism on the one hand and more couch potatoes on the other. But Furby obsessions and daytime talk shows seem a small price to pay for a society in which those classified as "poor" can buy many things that even well-off Americans couldn't afford a few decades ago.

And how about the poor? Considering that a common definition of "poor" is those in the lowest 20 percent of earnings and that *somebody* has to be in that category, don't expect their numbers to decrease any time soon. But again, Cox and Alm cut to the crux: How well-off are these poor? One of their many fascinating tables compares poor households in 1984 to poor households in 1994 and all households in 1971 (see table). As Cox and Alm observe, "By the standards of 1971, many of today's poor families might be considered members of the middle class."

The improvements cut across gender and racial lines. While some feminists continue to insist women are underpaid compared to men, even they don't contest that what they call the "pay gap" has narrowed dramatically. As for race, "After adjusting for inflation, the proportion of African-American families earning more than $75,000 has tripled since 1970, to 9 percent," note the authors. "In 1998 the poverty rate for African-Americans fell to 26.5 percent, the lowest since the government began collecting data on blacks' poverty in 1959."

Still, we could be doing better as a nation while slipping behind other countries. That's something some of us might find quite offensive. But even if you think it's important, it just ain't so. As we've found in recent months, the "Asian Tigers" have proved to be pussycats compared to our

Cox and Alm observe in *Myths of Rich and Poor*, "It's not government policy that gave us drive-through service, instant mail, [automatic teller] machines, home shopping networks, air-conditioned offices, and much, much more.

Even the Poor Have More

% Households with:	Poor Households '84	Poor Households '94	All Households '71
Washing Machine	58.2	71.7	71.3
Microwave	12.5	60.0	<1.0
Color Television	70.3	92.5	43.3
Dishwasher	13.6	19.6	18.8
One or More Cars	64.1	71.8	79.5

Source: *Myths of Rich and Poor*, Table 1.2

economy.

When you talk about export powerhouses, the name on everyone's lips is always "Japan." Yet America's overseas sales of goods and services were almost double those of Japan in 1996, and the United States doesn't have a United States to export to. America's share of world exports has remained constant, at about 13 percent, during the last quarter-century, which is hardly evidence we're becoming less competitive. Just compare the quality of American cars built this year to those of five years ago, much less 10, and you'll see a bit of the evidence as to why.

Of course, there's more to life than greater wealth—for instance, more time with your loved ones. That, too, is part of the trend. For all the talk of "the overworked American," as one book published a few years ago was titled, Americans on average are actually working fewer hours than ever.

According to Cox and Alm, the typical workweek was 34.4 hours in 1996, down from 36.9 in 1973. Employees work fewer hours in a number of ways: fewer days, later arrival, earlier departure, longer breaks. "Putting it all together," the authors write, "average annual work hours are down 10 percent since 1973—the equivalent of 23 work-days a year.... "When declining working hours, less time spent toiling at home, extended youth [getting jobs later in life], and longer retirement are all added up, the results are mind-boggling: American workers, on average, have added the equivalent of more than five years of waking leisure to their lives since 1973."

Some of us may spend that time watching Jerry Springer, to be sure, but it does allow more opportunity for more satisfying leisure, which, as Cox and Alm document, we are engaging in more and more. It's also more time to be spent with loved ones and doing charity work. "Almost half of the population finds time for some volunteer work," the authors write, "up from less than a quarter in 1974."

If there's something sad about all this, it's that so many Americans are convinced these improvements are the fruits of "reinvented government." Polls show this is one reason they are so forgiving of Bill Clinton's dogged efforts to become the most scandalous president in U.S. history.

But as Cox and Alm observe, "It's not government policy that gave us drive-through service, instant mail, [automatic teller] machines, home shopping networks, air-conditioned offices, and much, much more. It wasn't public decree that raised life expectancies by 30 years over the past century, or shortened our workweek by more than 20 hours. Over the past 200 years, we've progressed not by the grace of government but by the mechanism of the market."

Myths of Rich and Poor makes no pretense that greater wealth necessarily equals greater happiness. There are bitter billionaires and happy homeless persons. Data available elsewhere show what one would intuitively expect: that at least to the extent that it raises a person above subsistence level, more wealth does bring more happiness. Beyond that, it's up to us to make of our time what we wish. We can even spend it writing books about how the economy is doomed.

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The Education Precedent

School reform flunks its history test.

By Thomas W. Hazlett

It's time to paraphrase George Santayana: Those who cannot remember the past are condemned to repeatedly pay for failed education reforms. Today, every elected official in the country—from the president to mosquito-abatement district representatives—is stumping for strict "national standards" and billions to hire more teachers to reduce class sizes.

There's a growing consensus that *now* is the time to make the down payment on such *unprecedented* measures. The result, we're told, will be better schools and smarter kids who will do their parents proud (and who will make enough money to support them in their old age).

One question: What happened last time? In his 1990 State of the Union address, self-described "Education President" George Bush pledged that "national standards" would push our students into the next century with maximum academic momentum.

What kind of results spewed from this grand fountain of enlightened public policy? "Almost 10 years ago, President George Bush and the state governors set goals aimed at preparing all the nation's children to improve their achievement in core subjects and outpace the world in at least math and science by 2000," reported *Education Week* recently. "With one year remaining, the prospects of reaching those goals...appear practically nil."

Of course *this* time will be entirely different, right? But let's think for just a moment about hiring 100,000 additional public school teachers, the proudest pedagogical boast of last year's federal budgeteers. In 1994–95, the latest year for which the Census Bureau Web site posts such numbers, there were 3,763,312 elementary and secondary public school instructors on the payroll, serving some 44,111,482 students. That breaks down to a nationwide student/teacher ratio of 11.7. Dumping 100,000 new instructors into the mix brings the ratio all the way down to 11.4.

It seems safe to assume that not all instructors on payroll end up in the classroom, so the true student/teacher ratio is, in all reality, much higher. Fair enough. The 11.7 figure sounds low to me, too (let's just skip the potentially embarrassing question as to where those non-classroom instructors are hiding).

Let's figure that only half of all paid teachers make it to class. That means adding 100,000 new teachers lowers the average class from 23.4 to 22.8. And that's with the heroic assumption that we get 100 percent of the new teachers actually into the classroom.

What learning improvements will follow from diminishing the average class size by three-fifths of a student? The answer: none.

What learning improvements will follow from diminishing the average class size by three-fifths of a student? The scientific evaluation of educational methods has looked extensively at pupil/teacher ratios, and has arrived at an answer: none. Reductions from very large class sizes are correlated with improved learning, but the gains diminish around 35–40 per class, and essentially disappear in the 20–30 range.

Moreover, the 100,000 new instructors—having less experience and less motivation (else they would already have been teaching)—are likely to be inferior to those already in the classroom. This means that the net effect is to divert hundreds of thousands of students into classes taught by worse teachers. Even ignoring the multibillion dollar expense, the scheme may well result in declining educational opportunity for public school children in America.

But then, perhaps it's naive to assume that the new teachers are about education. Like the guys who run three-card monte games on the street, politicians know that misdirection is the key to a successful scam. If you look only where they tell you to, you miss all the real action.

The 100,000-teachers program successfully funnels lots of money—and recruits—to powerful teachers unions while setting off those sensors taped to the wrists of America's soccer moms, the suburban swing vote that matters most to Big Thinkers casting about for electoral votes. That U.S. per-pupil spending—$6,035 in 1995—exceeds that of all other developed nations while results lag far behind seems not to matter.

But why sacrifice the children? I suggest a therapeutic alternative to more and less-qualified public school teachers: Give generously to the Milton & Rose D. Friedman Foundation for Educational Choice, which supports vouchers. (One American Square, Suite 2440, Indianapolis, IN 46282).

Or lay a little green on a good strapped-for-cash private learning institution saving kids in tough neighborhoods from hopelessness, poverty—and public schools. A prime candidate is Providence, Rhode Island's Community Preparatory. My friend and fellow American Enterprise Institute economist, Bob Hahn, helped Dan Corley start this school in 1983, and today it educates 120 low-income kids.

If you check out the school's Web site (www.ed.uri.edu/CP/cp2.html), prepare for goose bumps. And a glimpse at what real education reform might look like.

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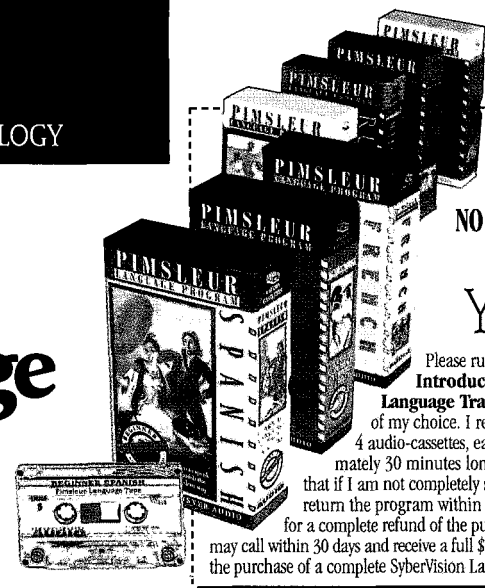


IT'S THE CHANCE YOU'VE BEEN WAITING FOR.

Welcome to the new Introductory Pimsleur Language Training Program from SyberVision and a unique opportunity to take today's best foreign language program out for a trial run. With this special Introductory Program, you can test eight full lessons for just $29.95 and get real, hands-on experience with this remarkable system – all at no risk. You have 30 days to use it, enjoy it, learn from it – then decide.

BEGIN SPEAKING THE LANGUAGE FROM DAY ONE!

It really is that quick and that easy. You'll learn at your own pace discovering how to listen, think, respond and apply the language beginning with the first lesson. With the complete program, you'll be functional in that language, easily speaking and conversing, guaranteed. Listen for just 30 minutes each day and you'll quickly find out why this powerful and proven teaching system – the Pimsleur Method – has worked so effectively for hundreds of thousands of people around the world.

NO BORING MEMORIZATION, NO WORKBOOKS.

With our easy-to-learn methods and audio tapes-to-go program, you just won't find a more entertaining and interesting way to learn a new language and to enjoy success from beginning to end. The reason? Dr. Pimsleur's renowned scientific research and proven learning system. With his methods you are an active participant, involved in intensive practice sessions with native speakers of the language. It's fun!

SAMPLE THE SYSTEM, LEARN THE SECRETS – THEN SAVE EVEN MORE!

We guarantee there's just no better way to learn a foreign language – and save money, too! Call us within 30 days and we'll give you a full $29.95 credit toward the purchase of a complete Pimsleur Language Training Program! And when you trade up to a complete program you'll also receive ***10 minutes a day***®– FREE! It's a great way to practice your new language skills, and the perfect complement to our all-audio system (see below).

YOURS FREE!

This "fun" innovative collection of learning tools is yours FREE when you purchase the complete 30-32 lesson program. Interactive games, puzzles & sticky labels introduce you to menus, road signs, currency and more–all in just 10 minutes a day! *(While supplies last.)*

WHY IS SYBERVISION THE BEST?

Because we teach you to think in the language, speak without memorizing and understand without translating. You'll rediscover the natural language process, the same experience you had learning your first language as a child.

Call us directly at

1-800-246-7208 (Outside the U.S. and Canada call (415) 288-3951)

and we'll send you the Introductory Training Program of your choice. You'll receive 4 tapes (8 half-hour lessons) of the full 16 tape course to demonstrate just how easy and effective the Pimsleur Method really is!

YOU'LL SUCCEED OR YOU DON'T PAY

You have a 30-day trial run. It's guaranteed! If you are not completely satisfied, return the program anytime within 30 days of receipt for a full refund of the purchase price.

1-888-313-6964

SYBERVISION® http://www.sybervision.com

Pimsleur Language Programs are published by Simon & Schuster Audio, a Division of Simon & Schuster, Inc., a Viacom Company

SPECIAL NO RISK/ NO OBLIGATION OFFER

YES ☐

Please rush me the special **Introductory Pimsleur Language Training Program** of my choice. I receive a total of 4 audio-cassettes, each side approximately 30 minutes long. I understand that if I am not completely satisfied, I may return the program within 30 days of receipt for a complete refund of the purchase price. Or I may call within 30 days and receive a full $29.95 credit toward the purchase of a complete SyberVision Language System.

LANGUAGES AVAILABLE:

Albanian	Hebrew
❑ Brazilian Portuguese	❑ Italian†
Cantonese	❑ Japanese†
Continental Portuguese	Korean
Czech	Lithuanian
Dutch	Mandarin
East Arabic	Ojibwe
East Armenian	Polish
Egyptian Arabic	❑ Russian†
ESL–Japanese	❑ Spanish†
ESL–Mandarin	Swiss German
ESL–Spanish	Twi
❑ French†	Ukrainian
❑ German†	Vietnamese
Greek	West Armenian
Haitian Creole	

❑ Blue indicates introductory programs available.

TO ORDER NOW CALL:

1-888-313-6964

Outside the U.S. and Canada call (415) 288-3951

Select Payment Method:

❑ Check enclosed or charge my:

❑ Visa ❑ MasterCard ❑ Discover ❑ AMEX ❑ Diners Club

Card No. _____ Exp. Date _____

Signature _____

I am enclosing a check for $29.95 (plus $2.95 shipping and handling*) for each program selected for a total payment of: $_____

†Available on CD for $34.95 (Plus $2.95 shipping and handling*)

(CA residents include appropriate sales tax) *Please call for international rates.

Name _____

Address _____

City _____ State _____ Zip _____

Phone No. (_____) _____

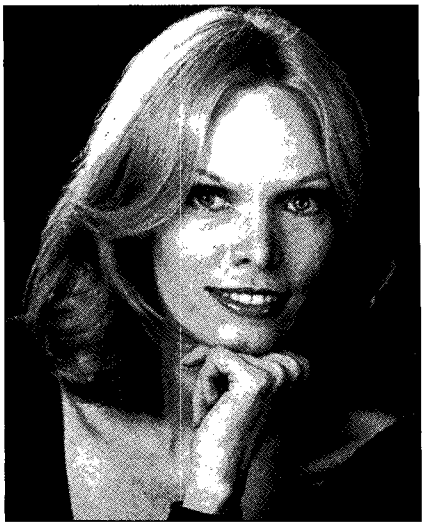
Return order form in an envelope to:

SyberVision
One Sansome St., Suite 810, Dept C264
San Francisco, CA 94104

SYBERVISION®

"Let me give you THE SECRETS OF FEARLESS CONVERSATION!"

"I promise you the ability to walk into a room full of strangers—and talk to anyone with total confidence, authority and flair."



by Leil Lowndes

The King of Conversation raves about Leil Lowndes!
"You'll not only break the ice, you'll melt it away with your new conversation skills."-***Larry King***

Don't you hate it?

The prospect of walking into a room that's packed with strangers, approaching someone you've never met and striking up a conversation.

It's natural to feel uncomfortable. Are you making a positive first impression? Are you saying the right things?

Well, don't be discouraged. You're not alone. Many top executives, politicians and celebrities dread these situations.

Master any encounter.

These high-profile people are among my clients. Despite their wealth and fame, they often confess that meeting and talking with strangers makes them uneasy. I turn them into polished, expert conversationalists.

Never underestimate the value of conversational skills! In a recent study, Stanford University MBA graduates were surveyed. What factor predicted success? *Not* grades. Instead, *the most successful individuals were those who were comfortable and confident talking with anybody!*

When I teach people these abilities, they experience dramatic, positive changes in their lives and careers. Now I've put all of my techniques into an exciting new audio-cassette program, *Conversation Confidence*™.

Reap the rewards.

Have you ever said to yourself, "I wish I had spoken up"? Or, "If only I had introduced myself"? Or, "Did I say the wrong thing"?

Conversation Confidence is the answer. *Just by listening,* you'll master the proven interpersonal skills you need to deal with *every* individual, *every* group, *every* occasion.

The result? New doors will open to you. You won't hesitate to accept an invitation, to approach someone important, to seize an opportunity. You'll never again feel like an outsider. Success will naturally flow your way—and with less effort than you ever imagined possible.

Internationally acclaimed communications expert ***Leil Lowndes*** *is a best-selling author and speaker who also coaches private clients, including top Fortune 500 executives.*

Winning strategies.

Here's just a sampling of the secrets you'll discover in *Conversation Confidence:*

- ✓**The two most powerful "instant rapport" techniques. Use them and you'll *always* make a terrific first impression.**
- ✓How champion socializers and big winners "work" a room.
- ✓**The four rules of effective "small talk"—and the one huge *error* many people commit.**
- ✓How to converse intelligently on *any* subject—even if you know little or nothing about it!
- ✓**Magic phrases that never fail to win a new acquaintance's trust and goodwill.**
- ✓How to handle difficult people. Ingenious ways to turn even the fiercest tigers into pussycats.
- ✓**Is she (or he) romantically attracted to you? How to know for sure.**
- ✓Someone mentions something you have in common. Wait! *Don't* reveal it right away. Here's why.
- ✓**Are you hearing the truth—or a lie? Watch for these critical tip-offs.**
- ✓Phone power! How to get through to "unreachable" people.
- ✓**Ten often-heard expressions—that *you* should *never say.***
- ✓Get what you want! Shrewd tactics to negotiate, persuade, sell. A powerful six-step formula to win others over.
- ✓**And much more!**

NO-RISK trial offer, plus a great FREE BONUS.

Test this terrific program for only $19.95. Put it to work—and watch what happens. I *guarantee* that with *Conversation Confidence,* you'll be a winner on every occasion, *or it costs you nothing!*

You'll receive the two Introductory tapes of the program to audition for 30 days. Listen to them as many times as you wish. Then, decide if you want the complete program. You may keep the Introductory tapes, or return them for a *prompt, full, no-hassles refund.* Fair enough?

You'll also receive a FREE BONUS: the* Verbal Advantage® *two-hour word power course.

This famous vocabulary-building program is the perfect companion to *Conversation Confidence.* And it's yours *free.* Even if you return *Conversation Confidence* and claim your refund, the bonus is *yours to keep!*

Now you can possess the self-assurance and skills to meet and talk with anyone, anywhere, any time. You'll never miss another chance to make a promising new business contact or friend, to win his or her trust, to achieve your goals.

Unleash the power of *Conversation Confidence* and start to create a real difference in your life. ***Order today!***

TEST THIS LIFE-CHANGING PROGRAM FOR 30 DAYS—WITHOUT RISK!

CALL TOLL-FREE 1-800-608-9673

Or FAX your credit card order to 949-361-5624 • www.verbaladvantage.com

*verbal*Advantage®
1150 Calle Cordillera, Dept. 5268
San Clemente, CA 92673

☐ **YES,** I want to test *Conversation Confidence*™ without risk. Rush me the two Introductory tapes. Please include my *free bonus,* the *Verbal Advantage* two-hour word course.

I may audition the Introductory tapes for 30 days. Later, I can decide if I want the complete program. If I'm not totally satisfied, I may return the two tapes within the one-month trial period for a prompt, full, no-hassles refund. ***The free bonus is mine to keep, regardless.***

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☐ My check for $24.90 is enclosed. ($19.95 plus $4.95 S&H)
Charge my: ☐Visa ☐MasterCard ☐American Express ☐Discover

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California residents, please add 7.25% sales tax ($1.45), for a total of $26.35